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S. HRG. 102-186

THE MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAU- THORIZATION ACT OF 1991

916-32

HEARING BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE ONE HUNDRED SECOND CONGRESS

FIRST SESSION

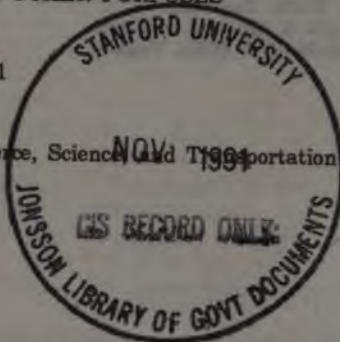
ON

S. 631

TO AUTHORIZE APPROPRIATIONS FOR THE MOTOR CARRIER SAFETY
ASSISTANCE PROGRAM, AND FOR OTHER PURPOSES

MARCH 13, 1991

Printed for the use of the Committee on Commerce, Science, and Transportation



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THE MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAUTHORIZATION ACT OF 1991

WEDNESDAY, MARCH 13, 1991

**U.S. SENATE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION
OF THE COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION,
*Washington, DC.***

The subcommittee met, pursuant to notice, at 2 p.m. in room SR-253, Russell Senate Office Building, Hon. J. James Exon, chairman, presiding.

Staff members assigned to this hearing: Sheryl Webber Washington, senior professional staff member; and Alan Maness, minority professional staff member.

OPENING STATEMENT OF SENATOR EXON

Senator EXON. The subcommittee will please come to order.

The Surface Transportation Subcommittee meets today to consider the reauthorization of the Motor Carrier Safety Assistance Program, called MCSAP. Yesterday, along with Senators Danforth and Kasten, I introduced S. 631, the Motor Carrier Safety Assistance Program Reauthorization Act for 1991.

Given the number of Americans killed annually in medium truck and bus accidents on our Nation's highways, we in the Congress continue to seek ways to improve truck and bus safety. Congress has addressed this area in the past with several legislative efforts.

S. 631 continues what is widely regarded as a successful Federal-State partnership by making some modifications intended to better direct the program at the cause of accidents involving commercial motor vehicles. The bill provides additional funding for MCSAP during the next 5 years. Additionally, the bill seeks to strengthen the program beginning in fiscal year 1993 by requiring States to conduct increased efforts in drug interdiction and drug and alcohol enforcement, by giving increased attention to the status of drivers, CDL's, and by focusing more attention on the traffic safety enforcement in relation to commercial vehicle safety and hazardous materials efforts.

Another important component of S. 631 includes requiring DOT to establish guidelines that will clearly delineate what is a compatible State safety rule as it relates to interstate commerce. The bill will require DOT to conduct a comprehensive rulemaking on the need to adopt methods for improving truck braking performances.

The bill also seeks to establish drug-free zones around truck stops by doubling the penalty level for those persons convicted of

selling drugs within 1,000 feet of a truck stop, and seeks to deter violations of out-of-service orders by developing a penalty structure for these actions.

We are very pleased today to hear testimony from the Honorable Eugene R. McCormick, Deputy Administrator of the Federal Highway Administration, as well as two panels. The first panel will include: Dr. Paul R. Rothberg, Specialist in Science and Technology, Congressional Research Service in the Library of Congress; Mr. Paul Henry, Deputy Administrator, Transportation Safety, Oregon Public Utility Commission, representing Commercial Vehicle Safety Alliance.

The second panel will include: Ms. Lana Batts, Senior Vice President, Government Affairs, American Trucking Associations; Mr. Gene Bergoffen, Executive Vice President, National Private Truck Council; and Mr. J. Todd Spencer, the Treasurer, Owner-Operators Independent Drivers Association, Inc.

I am looking forward to hearing from these witnesses, and I now call on any of my colleagues to present opening statements.

I understand Senator Kasten, the ranking member, will be here shortly, and at that time we will allow him to make his opening statement or enter it in the record. In the meantime, I wish at this time to enter into the record a statement by Senator Rockefeller, without objection, and that will be put in the record.

OPENING STATEMENT OF SENATOR ROCKEFELLER

Senator ROCKEFELLER. Mr. Chairman, the Motor Carrier Safety Assistance Program has been very successful in my State of West Virginia. According to the director of transportation of the West Virginia Public Service Commission, MCSAP has enabled the State to more than double the safety effort. Prior to the enactment of MCSAP, West Virginia was able to do 7,000 inspections per year. West Virginia now performs 20,000 inspections per year.

Since inspectors continue to find a high number of violations, I would hope that we will be able to improve the program to reduce those determined to be critical. Since human error is often cited as the cause of many accidents, it seems that it will be necessary to focus increased attention on the driver. Particular attention must be paid to licensing and removing the impaired driver from the highway.

MCSAP has been very successful because it is an enhancement program building on what the States already had in place. States have been able to determine with some flexibility how to expend the MCSAP funds. I am hopeful that any improvements that Congress mandates will continue to allow States to administer the program, and do so in a manner that will enhance the program, while maintaining the flexibility that has made it so successful.

Currently the funding formula for MCSAP does not utilize cost effectiveness and efficiency in determining the distribution of funds. I am told that West Virginia's MCSAP program is one of the most efficient in the Nation. I would like to see that effort recognized in determining distribution criteria.

Unlike many programs funded by the Federal Government, MCSAP has been a true State/Federal partnership. I believe that

is why it has been so successful. We should take those successes and build on them.

Thank you.

Senator EXON. Certainly the witnesses today are most important in advising and counseling us on this and any problems that they see with the bill as introduced. I look forward to hearing from the witnesses now, and I am pleased to call the first witness, Mr. McCormick.

Mr. McCormick, while you are coming forward, Senator Robb has come into the room. Senator Robb, do you have any opening statement?

Senator ROBB. Thank you, Mr. Chairman. I do not. In fact, I am only going to be able to stay with you for just a couple of minutes. I thought I would hear the opening statement and then I have another appointment. Thank you.

Senator EXON. We are glad to have you. Thank you. Mr. McCormick, welcome and would you please proceed.

STATEMENT OF HON. EUGENE R. McCORMICK, DEPUTY ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY MICHAEL TRENTACOSTE, DIRECTOR, OFFICE OF MOTOR CARRIER FIELD OPERATIONS, OFFICE OF MOTOR CARRIERS

Mr. McCORMICK. Good afternoon, Mr. Chairman. Thank you for the opportunity. It is my first personal opportunity to testify before your subcommittee. I look forward to that, certainly, on behalf of the Federal Highway Administration. I want to continue to work closely with this subcommittee and the committee at large in terms of continuing to improve the motor carrier safety on our highway system.

I echo your opening comments in terms of a Federal-State partnership being key to that effort. I come to this position after 25 years in a State agency and we believe in that partnership, and I believe that can serve our overall highway program and certainly our motor carrier safety program as well. So, I echo your comments fully.

With me this afternoon is Mr. Mike Trentacoste. He is the Director of the Office of Motor Carrier Field Operations in our Office of Motor Carriers.

Senator EXON. We welcome you, Mr. Trentacoste.

Mr. TRENTACOSTE. Thank you.

Mr. McCORMICK. The national transportation policy announced by President Bush and Secretary Skinner emphasizes that a safe and efficient transportation system certainly strengthens our Nation's competitiveness at home and abroad, promotes broad economic growth, enhances the quality of life for in fact all Americans.

Federal programs and policies therefore must remove the barriers that impede the efficiency and restrict the free flow of interstate and international commerce. The policy in the administration's highway bill emphasizes a continued commitment to transportation safety and transportation efficiency.

On February 13 of this year, the administration sent to Congress a proposed 5-year Surface Transportation Assistance Act, the so-called 1991 Surface Transportation Assistance Act, subsequently

introduced in both the House and Senate as House bill 1351 and Senate bill 610.

This subcommittee expressed interest particularly in title III of that act, the Motor Carrier Act of 1991. That bill would provide authorizations out of the highway account of the Highway Trust Fund for contract authority for our Motor Carrier Safety Assistance Program, basically beginning at a \$60 million level in fiscal year 1992, increasing to \$80 million in fiscal year 1993, and followed during the last 3 years of the bill at a \$100 million a year funding level.

Authorizations out of the highway account of the Highway Trust Fund are also provided, subject to the appropriations process, for the expenses of the Federal Highway Administration in carrying out motor carrier safety functions for each of the 5 years of the bill. In addition, some motor carrier provisions are codified as chapter 5 of title 23, U.S. Code.

The Motor Carrier Act modifies MCSAP to include weight enforcement and drug initiatives. Also, in order to reduce the paperwork burden on interstate motor carriers and enhance productivity, States will be required to adopt uniform commercial motor vehicle registration and fuel tax reporting standards. These objectives obviously relate back to that broad objective of a more efficient, productive transportation system.

The motor vehicle registration requirement would implement the consensus agenda developed several years ago by the National Governors Association. A single-base State collection and proportional sharing of revenues will be required. The act will prohibit a State from requiring interstate carriers to register their Federal ICC economic operating authorities with that State.

States will also be prohibited from regulating the nonsafety-related aspects of interstate motor carrier operations. These prohibitions will be enforced through injunctive relief.

Further, an information system to serve as a clearinghouse and a depository of information pertaining to the collection of commercial vehicle registration fees and fuel taxes would be established.

You have asked for our views on five specific areas and let me proceed to responding to those five specific areas if I could, Mr. Chairman. No. 1, ways to improve the effectiveness and efficiency of MCSAP, including ways inspections could be better targeted and focused on accident causation. We certainly will continue to work with States to improve the effectiveness and efficiency of safety enforcement activities.

We believe the administration bill provides the needed latitude and flexibility to States to target safety enforcement to the array of factors related to accident causation. Research has demonstrated that it is extremely difficult to attribute any particular accident to a single cause. Rather, it is the interaction of a driver's behavior, the vehicle, the highway, the travel conditions, the time of day, weather, and even other numerous factors.

States will use MCSAP funds to enforce commercial driver's license requirements, detect drivers impaired by alcohol and drugs, and remove unsafe drivers and vehicles from the road. States will continue to assume a greater role and responsibility in conducting onsite reviews of a motor carrier's operation and management from a safety standpoint.

Item No. 2, in terms of the appropriate MCSAP funding levels for the next 5 years. We believe that the appropriate levels as we have put forward in our proposed Surface Transportation Assistance Act and the Motor Carrier Act of 1991 element of that provides funding to support an expanded MCSAP program, to include increased State participation in conducting carrier safety reviews, roadside inspections, emerging CDL enforcement, further weight enforcement efforts, as well as drug and alcohol weight.

A new initiative will be to provide grants to the States for a clearinghouse for State vehicle registration and user fees that I referred to earlier.

Item No. 3, the compatibility if interstate and intrastate motor carrier safety regulations. Compatible State and Federal safety requirements enhance the industry's productivity and safety by allowing trucks and buses to operate under uniform regulations.

Thirty-five States have motor carrier safety laws and requirements affecting interstate carriers that are compatible with Federal safety requirements. Last month we proposed regulations to establish July 1992 as the deadline for States to correct their incompatible safety requirements that affect interstate motor carriers or risk Federal preemption.

We also have established guidelines allowing for some variation in intrastate safety requirements, and we fully believe that unacceptable differences can be corrected by working with States through MCSAP and really building upon that Federal-State partnership we referred to earlier.

Item No. 4, should MCSAP reimbursement be allowed for targeted weight enforcement efforts? The administration's bill would allow weight enforcement to be eligible for reimbursement under MCSAP. Weight enforcement under MCSAP would be an enhancement, an enhancement of a State's ongoing weight enforcement activities by only supporting activities beyond the current State level or the base level of expenditures.

When approving the enforcement plans prepared by States each year to document proposed MCSAP activities and through our day-to-day stewardship of the program, we will ensure that the States demonstrate MCSAP weight enforcement activities are carried out strategically to complement other truck safety enforcement efforts.

Item No. 5, regarding comments on what we were asked in terms of draft legislation, which now is not draft legislation. We certainly have examined the earlier staff committee working draft legislation and have provided staff technical comments in that regard, which we hope were of value to you, Mr. Chairman.

At this point we clearly have not had the opportunity to review the bill in depth, but we certainly look forward to the opportunity to provide any further comments that may be appropriate.

Mr. Chairman, that really concludes my initial response to the five areas you asked us to comment upon. On behalf of the Federal Highway Administration, we certainly look to a future where our highway program in this country certainly does move forward, provide for safe, efficient movement, and we value and we recognize the integral element that motor carrier safety plays in that regard.

So, with that, Mr. Trentacoste and I, Mr. Chairman, would certainly stand ready to respond to any further inquiries.

[The prepared statement of Mr. McCormick follows:]

PREPARED STATEMENT OF MR. EUGENE R. MCCORMICK

I am pleased to be here to discuss the reauthorization of our Motor Carrier Program. With me this afternoon to help me in answering your questions is Mr. Michael F. Trentacoste, Director of the Office of Motor Carrier Field Operations.

The National Transportation Policy announced by President Bush and Secretary Skinner emphasizes that a safe and efficient transportation system strengthens our Nation's competitiveness at home and abroad, promotes economic growth, and enhances the quality of life for all Americans. Federal programs and policies must remove the barriers that impede efficiency and restrict the free flow of interstate and international commerce. The Policy and the Administration's highway bill emphasize a continued commitment to transportation safety and efficiency.

On February 13, 1991, the Administration sent to the Congress a proposed Surface Transportation Assistance Act of 1991 (STAA) (H.R. 1351 and S. 610). This subcommittee expressed interest in title III of the STAA, the Motor Carrier Act of 1991. That bill would provide authorizations, out of the Highway Account of the Highway Trust Fund with contract authority, for the Motor Carrier Safety Assistance Program (MCSAP) of \$60 million for fiscal year 1992, \$80 million for fiscal year 1993 and \$100 million for each of fiscal years 1994, 1995, and 1996. Authorizations out of the Highway Account of the Highway Trust Fund are also provided, subject to the appropriations process, for the expenses of the Federal Highway Administration in carrying out motor carrier safety functions for each of the fiscal years 1992 through 1996. In addition some motor carrier provisions are codified as chapter 5 of title 23, United States Code.

The Motor Carrier Act modifies MCSAP to include weight enforcement and drug initiatives. Also, in order to reduce the paperwork burden on interstate motor carriers and enhance productivity, States will be required to adopt uniform commercial motor vehicle registration and fuel tax reporting standards. The motor vehicle registration requirement would implement the consensus agenda developed several years ago by the National Governors' Association. A single base State collection and proportional sharing of revenues will be required. The Act will prohibit a State from requiring interstate carriers to register their Federal ICC economic operating authority with that State. States will also be prohibited from regulating the non-safety related aspects of interstate motor carrier operations. These prohibitions will be enforced through injunctive relief. Further, an information system to serve as a clearinghouse and depository of information pertaining to the collection of commercial vehicle registration fees and fuel taxes will be established.

You have asked for our views on (1) ways to improve the effectiveness and efficiency of MCSAP, including ways inspections could be better targeted and focused on accident causation; (2) appropriate MCSAP funding levels for the next 5 years; (3) the compatibility of interstate and intrastate motor carrier safety regulations; (4) whether MCSAP reimbursement should be allowed for targeted weight enforcement efforts; and (5) draft MCSAP reauthorization legislation which may be introduced by Senators Exon and Danforth. I shall address each of these issues.

(1) *Ways to improve the effectiveness and efficiency of MCSAP including ways inspections could be better targeted and focused on accident causation.*

We will continue to work with the States to improve the effectiveness and efficiency of safety enforcement activities. The Administration's bill provides the needed latitude and flexibility to States to target safety enforcement to the array of factors related to accident causation. Research has demonstrated that it is extremely difficult to attribute any particular accident to a single cause; rather it is the interaction of a driver behavior, the vehicle, highway and travel conditions, and weather and time of day. States will use MCSAP funds to enforce commercial driver's license requirements, detect drivers impaired by alcohol and drugs, and remove unsafe drivers and vehicles from the road. States will continue to assume a greater role and responsibility in conducting on-site reviews of a motor carrier's operations and management from a safety standpoint.

(2) *Appropriate MCSAP funding levels for the next 5 Years.*

We believe that the appropriate levels are as set out in the Motor Carrier Act of 1991. This bill provides funding to support an expanded MCSAP program to include increased State participation in conducting carrier safety reviews, roadside inspections, CDL enforcement, weight enforcement, and drug and alcohol enforcement. A new initiative will be to provide grants to the States for a clearinghouse for State vehicle registration and user fees.

(3) *The compatibility of interstate and intrastate motor carrier safety regulations.*

Compatible State and Federal safety requirements enhance the industry's productivity and safety by allowing trucks and buses to operate under uniform regulations. Thirty-five States have motor carrier safety laws and requirements affecting interstate carriers that are compatible with Federal safety requirements. Last month, we proposed regulations to establish July 1992 as the deadline for States to correct their incompatible safety requirements affecting interstate motor carriers or risk Federal preemption. We also have established guidelines allowing for some variation in intrastate safety requirements and believe unacceptable differences can be corrected by working with the States through MCSAP.

(4) *Should MCSAP reimbursement be allowed for targeted weight enforcement efforts?*

The Administration's bill would allow weight enforcement to be eligible for reimbursement under MCSAP. Weight enforcement under MCSAP would be an enhancement of a State's ongoing weight enforcement activities, by only supporting activities beyond the State's current or "base level" of expenditures. When approving the enforcement plans prepared by States each year to document proposed MCSAP activities and through our day-to-day stewardship of MCSAP, we will ensure that States demonstrate MCSAP weight enforcement activities are carried out strategically to complement other truck safety enforcement efforts.

(5) *Draft reauthorization legislation.*

We have examined the committee staff working draft legislation and given your staff technical comments which may be of value to you. We cannot make definitive judgments on the legislation until we have seen it in its final form. We do note that the Administration bill, when compared to the committee draft, includes higher levels of funding for MCSAP; contains economic deregulation and uniformity provisions important to the productivity and competitiveness of the motor carrier industry not found in the draft legislation; and provides broader latitude and flexibility to the States to devise and implement safety enforcement activities to address problems unique to each the State. We prefer the Administration proposal.

That concludes my prepared statement. Mr. Trentacoste and I will be pleased to answer your questions.

Senator EXON. Mr. McCormick, thank you very much.

The bill was introduced yesterday and I can tell you that we appreciated very much the input that we had from you folks over there on this. There are no surprises in the bill, and staff has just advised me that they believe that—I understood you to say that, from what you had see of the bill, plus taking into consideration your views, that you very likely would be in a position to support the bill. Is that correct?

Mr. MCCORMICK. That is correct, Mr. Chairman. It looks very compatible. Obviously it does not include some elements of the administration's proposal, but it certainly appears completely congruent in our mind.

Senator EXON. Thank you very much.

The bill was introduced yesterday and printed in the record, so you can take a look at it.

Mr. MCCORMICK. Thank you.

Senator EXON. We will hold the record open for a while on this, and I hope that maybe before we close the record you would be able to take a look at the introduced piece of legislation and put it to us in writing how you feel about it.

Mr. MCCORMICK. We will take advantage of that opportunity, Mr. Chairman.

Senator EXON. Mr. McCormick, we are going to hear testimony later on this afternoon, according to the written testimony that we have received, that suggests that the 1982 act which created MCSAP is unclear regarding the need for compatibility between the Federal safety regulations and the interstate regulations.

You touched on that some in your remarks. Could you expand just a little bit, hopefully with some specifics? What is your view on the clarity of this as far as your agency is concerned?

Do you agree that there is a lack of clarity on this issue? What factors would you like to see changed so that we can move ahead cooperatively on getting this regulation and law operative? Nothing takes place until the rubber hits the road, so to speak, when we are talking about highway safety matters.

Mr. McCORMICK. I believe the question of compatibility in the initial legislation basically does provide the framework for us to move down that road, if you will, and continue to further identify what areas of concern there may be, and certainly some have expressed concern in terms of that compatibility, if you will.

So, my general reaction I guess comes back to the philosophy of a partnership program and the optimism and the confidence that, by continuing to closely work together with State agencies, that I think to a large degree most of what some perceive at this point as potential problems can be addressed, not belittling the outstanding question that there may be issues arising that bring back the need for further action.

Perhaps I could call upon Mr. Trentacoste to supplement that response.

Mr. TRENTACOSTE. Thanks, Gene.

I would just add that, on the interstate commerce side, the Congress has passed legislation in the past that has required compatibility for interstate commerce, and the MCSAP program basically follows the recommendations of the safety panel that was mandated by the Congress. So, on the interstate side we are following those recommendations.

On intrastate, we are working with the States to try to get to an acceptable position.

Senator EXON. Thank you.

I am advised by staff that I said "interstate" when I meant "intrastate" a few moments ago. I would wish the record corrected on that. We are talking about intrastate.

Go ahead, Mr. McCormick. Is there anything to add to that?

Mr. McCORMICK. No. I think we are optimistic that as problems and questions continue to emerge that, through a partnership program, we feel confident that we can address those potential problems.

Senator EXON. How does your agency determine what level of variation in interstate safety is acceptable? Does it vary depending on the States and the circumstances within the States? It's a rather complicated question. Can you generally outline it for us for the record?

Mr. McCORMICK. Well, obviously we had to cope with that problem when we proposed in the surface transportation bill a given MCSAP level of funding nationwide. It was certainly not an easy question to come to an answer on.

But clearly, in our mind as we look for expanding the roadside inspection and the motor carrier review and implementing the commercial driver's license provisions, as well as the uniformity provisions we provide, those were basically the key linchpins of a nationwide basis that we looked at to try and arrive at what we feel

is a responsive, appropriate level of funding the overall program that is proposed in our bill.

Senator EXON. Mr. McCormick—

Mr. TRENTACOSTE. I would add, as I mentioned before, on interstate commerce, basically you are dealing with the safety panel's recommendation. On the intrastate side, back in 1988 we developed some additional flexibilities that the State would have in dealing with State and regional and local concerns on intrastate commerce.

These have been distributed to all the States and they have it in their hands, and that is the basis for assessing compatibility on the intrastate rules.

Senator EXON. Driver training is something that we have wrestled with for a long, long time. There were an awful lot of complaints about it when we started out about the way the test was worded, how it was given. And I thought that some of the complaints that I heard about were justified.

In his written testimony, to kind of follow along on this general subject, Mr. Spencer of the Owner-Operators Independent Drivers Association suggested that the development of standard training requirements for entry-level commercial vehicle operators should be a Federal priority.

What are your views on the need for more standard driver training, the Federal role in this matter? And have the complaints that we earlier heard been corrected? Is the inspection and testing program now working more smoothly than when it started?

Mr. TRENTACOSTE. If I can go ahead on that, I think our first address of that particular problem deals with the development and implementation of the commercial driver licensing program. That program is intended at improving the quality of the drivers before they get on the road, making sure that drivers that are unsafe are taken off the road.

In addition to that, a number of years ago we worked on developing training materials that the industry could use, either the training schools or motor carriers for training tractor-trailer drivers. Those materials, a set of manuals for the instructor as well as the student, are being used now in the industry.

A private organization, the Professional Truck Driver Institute of America, is using those materials as the basis to go around and reviewing training schools. And so far we believe that the private sector has stepped in and are providing the needed assistance in getting training started.

Senator EXON. Thank you. I intend to be asking that question of the representatives of the trucking companies and their drivers who will be testifying this afternoon.

The last question I have has to do with States dropping out of MCSAP. Do you believe highway safety would be compromised by States such as Texas, California, and Oregon dropping out of MCSAP because of the tightening of your requirements for interstate compatibility?

Mr. MCCORMICK. My reaction would be that, yes, I think it's very legitimate to ask that question if that should emerge. In that case, I remain somewhat optimistic that they will not. But I think we would have to ask ourselves that question.

Without knowing what maybe the causes are and what the particular circumstances are, it is a little difficult. But we certainly will do everything on our part to make sure that is not the case, and I would not expect that.

Senator EXON. Do you have any statement that you could make at this time as to what the one, two, or three concerns or rumored concerns that those States have?

Mr. McCORMICK. Well, I think you touched upon it yourself earlier, Mr. Chairman, in terms of fully understanding the compatibility equation and what that really means, is the foremost one that probably comes to my mind.

Mr. TRENTACOSTE. Yes, flexibility to be able to have separate or different sets of safety standards for intrastate commerce, for instance allowing drivers to operate more time before they are required to get rest, or exempting segments of the industry in a particular State.

Senator EXON. Well, it seems to me that those are obviously—the time it takes to train a driver, you could argue about that all day long. But there has to be some reasonable period of time that I think we should come to.

All that I suggest is that we keep foremost in mind safety is the name of the game and that is what we are looking toward. And I would hope that we would not have any States moving out of the program. I think it would not speak very well, frankly, of their recognition of their obligation for intrastate movement of goods and services in trucks.

But in any event, thank you for your testimony.

I am very pleased now to recognize the ranking member of the committee, the Senator from Wisconsin, Senator Kasten.

OPENING STATEMENT OF SENATOR KASTEN

Senator KASTEN. Mr. Chairman, thank you, and thank you for calling this important hearing.

Last week the President challenged the Congress to act on highway legislation within 100 days. The Motor Carrier Safety Assistance Program receives a relatively small part of the highway bill's overall budget, but it is critically important in terms of reducing highway deaths and injuries. So, I am pleased to be an original cosponsor with you, Mr. Chairman, Senator Danforth, and others of this year's MCSAP bill.

Each year MCSAP inspectors conduct 1.6 million inspections of commercial vehicles and their drivers. If those trucks or buses have serious safety problems, they are supposed to be fixed before the vehicles go back on the highway. MCSAP has been so effective in correcting safety problems that it enjoys wide support from the administration, the trucking industry, the States, and I would also say our committee.

No human endeavor is perfect, however. MCSAP can be improved. Our legislation seeks to strengthen MCSAP and make it more efficient. It expands on the program to cover the human factors that contribute to many truck and bus crashes, such as reckless drivers.

I just have one or two questions, Mr. McCormick. Your authorization bill provides \$51.4 million for fiscal year 1992 and rapidly

increases that authorization level to \$94 million by 1995. The reauthorization bill that I have introduced with Senator Exon and Senator Danforth starts funding at a higher level—\$65 million.

So, your \$51 million compares with our \$65 million for the first year. Then we do not increase as much or as quickly. We end 1996 with \$85 million, whereas you were at \$94 million by 1995.

Could you explain why your bill takes this relatively rapid increase approach, and comment, if you will, on our more steady increase approach? Are we doing something wrong or do you have information that we do not know, or are you playing with OMB by trying to backload something?

I cannot tell what is going on here.

Mr. McCORMICK. I think, No. 1, Senator, we are both doing something right, I hope, in recognizing the need and increasing the funding foremost. In terms of when we look closely at the first year of our bill—and incidentally, when I say “we,” we built upon information from the American Association of State Highway and Transportation Officials and the American Association of Motor Vehicle Administrators that were looking at the program and trying to achieve and determine what is an appropriate level of funding. So, we tried to use that as additional input.

In the first year of our program, there is a fairly small increase, again the theory in our mind being have a clearcut picture of the long-term future; that is, a 5-year bill, and use the first year of the bill to make sure you adequately plan and develop an implementation program, if you will, for then the later years of the bill.

Then that's why you see the increase in the second year particularly above and beyond the costs that are associated with the uniformity provisions of our bill. So, I guess I am not so sure there is that drastic a difference between the two alternatives. I think we are both recognizing the same problem.

And I would simply say I think we can continue to work collectively with the committee as we look to achieve that target, that ultimate target of a strong program.

Senator KASTEN. There is not any special program or part of the program that you were counting and we were not or we were counting and you were not?

Mr. McCORMICK. No, my understanding is it is basically apples and apples. Is that correct?

Mr. TRENTACOSTE. Yes. I would point out that the Senate bill does have about \$10 million of items that were not in the administration's bill, such as \$7.5 million targeted to traffic safety, \$1.5 million targeted to CDL, and up to \$2.5 million for research and development.

So, if you were to take those numbers out of the Senate bill, then there is only several million dollars difference from the administration's bill. Instead of those items, we have in ours up to \$8 million in the first several years for a uniformity program which is not in the Senate bill.

Senator KASTEN. Our bill also contains a provision that was in the Senate-passed version of last year's truck safety bill, the provision which doubles the criminal penalty for selling drugs in truck stops. Does the administration support this provision?

Mr. McCORMICK. We certainly support fully a drug and alcohol-free transportation environment.

Senator KASTEN. And therefore you support the doubling of the penalty?

Mr. McCORMICK. We support that effort.

Senator KASTEN. Finally, MCSAP has always been a safety program. The administration has proposed making weight enforcement a reimbursable expense under MCSAP for the first time. The bill that has been introduced by this committee would permit this reimbursement, but only when it is shown to have a direct relationship to safety.

Do we have an acceptable compromise here?

Mr. McCORMICK. Well, No. 1, it is an eligible expense in our mind, but it must stem from the foundation of weight enforcement program that exists in a given State today.

No. 2, again nurturing that State-Federal partnership, we believe there may be application in particular States where weight enforcement, expanded weight enforcement activities ought to be viewed in the context of their overall proposed MCSAP program and we thereby try to provide the flexibility for States to consider that.

So, it is not a mandate on our part, but leaves an open question for further consideration.

Senator KASTEN. Mr. Chairman, I have no further questions except to say it seems from your questions and also from this series of questions and responses that we are going to work together, and I look forward to doing that and I thank you for your testimony and I look forward to working with you.

Senator EXON. Thank you, Senator Kasten.

Let me just follow up with just a brief question for clarification, based on the good question by the Senator from Wisconsin and the reply. Let us take one item, the increased amount in our bill for driver certification programs, certified drivers. Do you agree that at least that one part of the bill is a worthy step in the right direction? We think it is very important?

Mr. TRENTACOSTE. Senator, is this with regards to the increased expenditure for doing traffic safety enforcement?

Senator EXON. Yes.

Mr. TRENTACOSTE. We are in general agreement with the direction. I think that we would like, as in the weight program, to have the flexibility to work with the State so that those types of enforcement activities could occur without having it specifically tied to an inspection of the vehicle or the driver.

But we recognize the importance of the driver in the whole equation of safe operations. CDL and our activities with that are focused toward the driver.

Senator EXON. Thank you.

Senator Pressler.

OPENING STATEMENT OF SENATOR PRESSLER

Senator PRESSLER. Thank you, Mr. Chairman.

I was in an Aging Committee hearing this morning and we were talking about that never in history had there been so many Government acronyms in our hearing. There was HCFA and PRO's and HMO's. Now this afternoon we are coming to deal with MCSAP. I

am told that is the correct pronunciation. I want to make sure I have got that right before I start asking about MCSAP.

Let me ask you a little bit about the reauthorization of MCSAP includes provisions involving DOT rulemaking in improving truck braking performance. Exactly what is that?

Mr. MCCORMICK. Senator, if I may, let me make one other comment that is somewhat related. In the administration's bill, I guess I failed to mention earlier, but I think it is a significant item, the fact that our entire motor carrier program, including the MCSAP element, would for the first time be funded out of the Highway Trust Fund as an ongoing part of our basic overall program.

Mr. Chairman, I think that is a significant element. I think that is important, so that everyone view this as being a fairly integral part of the Federal highway program. Senator, I failed to mention that, so forgive me while I got off there for a moment, if I could.

Mike, would you please respond to that question.

Mr. TRENTACOSTE. Yes. The Congress had mandated several years ago that the Department conduct a study on brakes. The National Highway Traffic Safety Administration has responsibility for that report. It has basically gone through all the clearance channels and should be sent up to the Congress shortly.

From what I have seen, the report will specify that there have been significant improvements made to commercial motor vehicle brake systems over the last several years, but that additional improvements need to be made, particularly relative to the adjustment of brakes and the maintenance of brake systems.

Senator PRESSLER. Is this related in any way to this new thing in cars where they have got antilock brakes, where there is a computerized braking system in the car?

Mr. TRENTACOSTE. Yes. There is a study going on now, a several year study, on antilock brakes, and that is one of the components that they are looking at to improve the system in the future.

Senator PRESSLER. Do we now require antilock brakes in trucks?

Mr. TRENTACOSTE. No, we do not.

Senator PRESSLER. Do we have the technology for it?

Mr. TRENTACOSTE. That is what the study is looking at the technology and the ability to maintain it in the environment that the trucks are operating.

Senator PRESSLER. I mean, I am trying to get to the bottom line. Are you recommending that antilock brakes be required?

Mr. MCCORMICK. The National Highway Traffic Safety Administration is directly responsible for that question, Senator, so we are not trying to duck it in that sense. My understanding, earlier, many years ago, there was a study and an effort, an evaluation, evaluating antilock brakes. It at that time was concluded that there were major problems.

However, more recent studies seem to be indicating that that is a very likely area of further equipment enhancement. So, the current indications are that, yes, that may well be an area that is ripe for exploration.

Senator PRESSLER. That is something I am very interested in. So, whatever agency of Government, I do not know who is the proper—

Mr. McCORMICK. It is one of our sister agencies and I will make sure personally that they are well aware of your interest, Senator.

Senator PRESSLER. Good.

Now, the CRS study of the MCSAP program also suggested that a greater use of technology should be used to tap into data bases showing past inspection histories of drivers and vehicles, and I guess you have touched on this already. But what assurances can we give smaller, rural States such as South Dakota that they will not be left behind in the application of such technologies?

Mr. TRENTACOSTE. Well, let me say, Senator, that the vast majority of the States are already on the telecommunications system that uploads information on roadside inspections and driver inspections that are done at the State level to a central data base in the Department of Transportation, and the States then have that information available to them for use at the State level or local level.

We are also using that data as a way to focus on which carriers we should be visiting, the ones that are having the poor performance on the road, either because of the vehicle or the driver. So, that is something which we are currently utilizing.

Unfortunately, South Dakota is one of, is really the only State that had not applied to be in the MCSAP program, and we have had ongoing discussions with them. Even if they declined to enter MCSAP, we would certainly be open to sharing data that we have on carriers with the State.

Senator PRESSLER. The Congressional Research Service study of the Motor Carrier Safety Assistance Program also found that MCSAP performs very little driver-oriented enforcement. Now, what steps can be taken to increase MCSAP's role in preventing driver-related accidents? And you have covered part of that already.

Mr. TRENTACOSTE. I would say that there are various levels of inspection that the State personnel use that are dealing with the driver, and that is reimbursed. We reimburse the State inspectors for those activities.

We also have a project ongoing with the Arizona Department of Public Safety to develop equipment that could be used roadside to detect whether a driver is fatigued, and that is something which hopefully within the next year we will move to the implementation stage.

And I think as CDL gets fully on line, we will be able to work with the State enforcement people for tapping into that system to find out the license status of the drivers.

Senator PRESSLER. Thank you, Mr. Chairman. I may have more questions for the record.

Senator EXON. Thank you very much, Senator.

I am pleased to recognize now the Senator from Montana, in just a moment. But I do want to salute the Senator from Montana. I think that there is no person that has done more for highway safety, especially with regard to movement of cattle, than Senator Burns.

It was only a couple of years ago that he was hauling down some of those critters from Montana and they got loose and were scattered and running around our highways in Nebraska and caused considerable consternation among the drivers, not because they

were so afraid of the cattle, but they were about the skinniest creatures that we had ever seen in Nebraska and it caused a lot of talk.

One person told me that those Montana cattle looked like they had four sturdy legs with sagebrush on them, holding up a bunch of bones.

With that, I salute you for your contribution to our highway safety, Senator, and recognize you.

OPENING STATEMENT OF SENATOR BURNS

Senator BURNS. May I have 5 minutes? [Laughter.]

Senator EXON. Yes, you can.

Senator BURNS. Well, I better withhold, knowing that the Big Eight basketball tournament is over.

Senator EXON. They will not get that.

Senator BURNS. Oh, yes they will, too.

I just picked up, Mr. McCormick—and I do not have very many questions regarding this, but did I hear you say that all of this is enforcement that comes out of the Highway Trust Fund?

Mr. MCCORMICK. The administration's bill would completely fund the MCSAP program out of the highway account portion of the Highway Trust Fund.

Senator BURNS. Do you agree with that?

Mr. TRENTACOSTE. If I could, the MCSAP program, the grants to the States are now funded out of the Highway Fund. Our Federal Highway portion of that, our inspectors and headquarters staff, is not funded out of the Highway Fund, as is the rest of Federal Highway.

The proposal is that all of the FHWA internal administration program, as well as the grants to the States, will be funded out of the Highway Trust Fund.

Senator BURNS. Last year we tried to give some relief as far as the CDL is concerned to some agribusiness people, mostly the custom harvesters, to try to exempt those people. You know, we had some young drivers that drive in fields and very seldom ever hit the highway. And I think we will probably try to get that done this year.

Would you concur with anything like this or like that language said a year ago that passed the Senate, but it always failed the House?

Mr. MCCORMICK. We have been posed recently inquiries along those same lines, both in terms of custom harvesters as well as farm equipment retail operations. Obviously, we are reconsidering the question in light of the further inquiries, anxious to look at any further information that may be available in that regard.

However, we feel our responsibility lies toward assuring the safety objectives of certainly the committee and our own administration, and therefore it is a very difficult situation. And I think we have to assure that safety in our highways and assuring safe drivers are paramount, is paramount in our mind.

Senator BURNS. I have no further questions, although we did notice that your highways were not fenced down in Nebraska. That is the reason it took us so long to run them cattle down. [Laughter.]

Senator EXON. Those cattle from Montana have probably never seen a fence before.

Senator BURNS. That is right. They would not know what it looked like.

Senator EXON. Following up on Senator Burns' questions, I do think we need to give some attention to this proposition of implement dealers and combine operators and things of that nature. But I also agree, Mr. McCormick, that safety has to be the number one consideration. And I do hope that we will continue to work together on that.

There may be some temporary permits that could be issued on some kind of a basis, on a selective basis. I guess I always worry from a safety standpoint if very young drivers would be placed in positions of traveling on some of those roads, especially the two-lane highways, and the safety that I think that presents, not only for the drivers of those trucks, but for the people that are meeting them or passing them.

But certainly the point that the Senator from Montana has brought up is a good one, and I hope that you will continue to address that and maybe we can come up with some general agreement that would be satisfactory to all. Not everybody is going to be happy with it, but may be satisfactory to all.

My last question has to do with the Highway Trust Fund. Under the proposals advanced by the administration, would all of the Highway Trust Fund be expended or are we going to have to continue this argument that we have had, not only with this but previous administrations, representing both political parties, on insisting on keeping more than a minimal balance in the trust funds, including the Highway Trust Fund?

I think it is the near unanimous view of this committee that, with the pressing needs that we have in this whole area of highway construction and highway safety, that we do not believe that it makes any good sense at all to have dedicated funds, such as the Highway Trust Fund, piling up money in the bank or being used for other purposes when the money that went into those funds came from a dedicated tax source for a specific purpose.

What is your view, and if you can speak for the administration on that?

Mr. MCCORMICK. Well, I would suggest that the administration's bill does take one step forward in terms of that question, and that certainly is a very relevant question. I think it is important to recognize that within the highway program projects that are authorized and obligated in 1 year on the average are actually reimbursed and paid out over the following 3 years, a total of a 4-year payout in a typical highway project.

So, it is therefore important to recognize that it takes 4 years before the full impact of obligations actually are felt on the actual Highway Trust Fund balance.

In direct answer to your question, Senator, the balance at the end of the 5-year program would be slightly higher than today's balance, about \$2 billion above the \$11 billion balance. It is important, though, to realize that obligations are increasing, and during the last year of the proposal the actual highway account balance of the Highway Trust Fund would be reduced by nearly \$3 billion.

So, it takes time to build momentum and before the actual expenditures are incurred, and it is the last year of the bill before the actual Highway Trust Fund balance declines.

It is also important to note, I think, the obligations. The highway program level is proposed to increase from nearly \$16 billion in 1992 to \$20 billion in 1996. Therefore, the obligations that are outstanding at any point in time against that balance grow appreciably over those 5 years of the bill, and that in fact at the end of the period you would therefore have a much lesser percentage in terms of the highway account balance as related to overall then outstanding obligations.

So, the balance grows during the first 4 years, the program grows. In the fifth year of the program, the balance decreases significantly.

Senator EXON. Are you saying, Mr. McCormick, then that we do not have enough need—

Mr. MCCORMICK. No, I did not.

Senator EXON. Let me finish my question.

We do not have enough need that we could not spend more constructively to get the job done, and that the bill and suggestions proposed by the administration goes as fast as we possibly could?

Mr. MCCORMICK. No, I am sorry, I did not mean to suggest that. I did not mean to suggest that. There would remain at the end of the period, according to GAO, I believe, an order of magnitude of \$5 to \$6 billion that theoretically could have been spent and obligated over the 5-year period above and beyond the total \$87 billion 5-year program.

I will simply observe that therefore that excess, if you want to call it an excess, is a relatively small percentage of the total \$87 billion. But we all know full well, you certainly in Nebraska and the Senator in South Dakota, the needs on our highway system are vast, and there certainly are very legitimate needs out there. A very cost effective application could be made.

But obviously, the overall budget, particularly during the first 4 years of our proposed bill, and the spending constraints that we are all living under are very tight. Very difficult choices must be made.

Senator EXON. Thank you.

Any further questions, Senator?

Senator PRESSLER. Well, I guess I just might ask a real basic one. What do I say to the little lady who drives a little car who says to me, What are we going to do about all these big trucks on the road?

Can I tell her that statistically they are actually safer than they were a few years ago, or they are going to get that way? Can I assure her that Mr. McCormick is taking care of the problem?

Mr. MCCORMICK. Well, we are certainly working on the problem and we think we are making inroads and safety enhancements, certainly, from a road standpoint, from an equipment standpoint such as you referred to earlier, and certainly from a driver standpoint. I believe we are making inroads, and this proposal that we have put forward will continue.

Senator PRESSLER. But statistically are we safer than we were a few years ago?

Mr. MCCORMICK. Well, I cannot speak—

Mr. TRENTACOSTE. I would say yes, that the accident rate, as well as the fatality rate, involved with large trucks is going down. Part of that has to do with the reduction in the actual deaths, but also there is a significant increase in the amount of travel on the highway, and the combination of those two have brought the rates down, both for accidents and fatalities.

Senator PRESSLER. Those are hard statistics?

Mr. TRENTACOSTE. Yes.

Mr. MCCORMICK. I can quote an overall statistic, not in terms of trucks specifically, but currently our fatality rate is the lowest it has ever been in this country's history of highway travel. And I think it is the result of an aggressive, positive MCSAP program, among many other safety incentives.

Senator EXON. Let me just ask you this question. This good record that we have established in the last few years is in spite of the alarm that was sounded in some quarters about raising the speed limit. Evidently that has not had an adverse effect on overall safety, based on your statistics, is that correct?

Mr. MCCORMICK. I think that would be certainly a very fair interpretation.

Senator EXON. There were many criticisms of that proposal when myself and others advanced it. But I currently believe that the net result has been what I thought it would have been at the time. That was, when we had a 55-mile-per-hour speed limit everybody was driving 65 and 70 miles an hour anyway, and they are still driving 65 and 70 miles an hour. I do not suspect the average speed has gone up greatly, which indicates that proper safety concerns are—speed is one factor, but there certainly are other factors that enter into the concern of the average motorist on the road, and of course the trucking industry as well, too. They want safety.

I have no further questions. Gentlemen, thank you very much for your testimony.

Mr. MCCORMICK. Thank you, Mr. Chairman.

Senator EXON. I am now pleased to call panel No. 1. That is: Dr. Paul Rothberg, the Specialist in Science and Technology, Congressional Research Service of the Library of Congress; Mr. Paul Henry, Deputy Administrator, Transportation Safety Division, Oregon Public Utilities Commission, Labor and Industry Building, of Salem, OR.

Mr. Rothberg and Mr. Henry, would you please come forward. We appreciate your taking your positions. We will start out with you, Dr. Rothberg, and we will accept any and all testimony submitted by this and other panels without objection as to be fully printed in the record, and we would very much appreciate your summarizing in any fashion that you see fit at this time. Doctor.

STATEMENT OF DR. PAUL F. ROTHBERG, PH.D., SPECIALIST IN SCIENCE AND TECHNOLOGY, CONGRESSIONAL RESEARCH SERVICE, LIBRARY OF CONGRESS

Dr. ROTHBERG. At the request of this committee, CRS has conducted three studies dealing with MCSAP during the last 3 years. My testimony is based primarily on these reports.

MCSAP is one of the crown jewels of our Nation's highway safety programs. The challenge before Congress is to decide whether and

how this program might be improved. The 1982 Surface Transportation Assistance Act, which created MCSAP, has served the original intent of this program well. Consequently, Congress could simply reauthorize MCSAP and provide an amount of funds necessary to ensure that it continues to be successful. This approach, however, would not fully develop MCSAP's potential contributions to highway safety.

Despite the numerous contributions of their work, MCSAP inspectors are not conducting either a comprehensive or a strategically designed program. To implement such a program, increased focus on the driver is needed. There are three key ways to accomplish this: First, if MCSAP officers were encouraged and reimbursed to conduct targeted traffic enforcement stops coupled with inspections, this program would be strengthened. Second, many MCSAP officers could substantially improve their training on how to recognize the impaired driver. Finally, using existing technology MCSAP officers could much more effectively enforce the commercial driver's license.

The legislation you are considering this afternoon authorizes funds to implement each of these initiatives. I would now like to elaborate on these and other points.

Point No. 1. In order to further reduce accident rates, MCSAP, which is oriented primarily toward the vehicle, would need to focus increased attention on drivers' on-highway operating performance.

Although many factors may play a role in accident causation, driver error is the major cause of accidents involving trucks and buses.

Currently, MCSAP is not designed or intended to effectively address on-highway driver operating errors that involve such critical safety violations as speeding, improper lane changes, and following too closely. Under current authorizing law, MCSAP does not pay for State and local enforcement officers to conduct traffic enforcement activities.

If Congress allowed traffic enforcement when coupled with an inspection to be reimbursable, MCSAP would supplement current traffic enforcement efforts, thus helping to save more lives on our Nation's highways. Although substantial costs are involved, making traffic enforcement an integral part of MCSAP is the most significant and probably the most important change that Congress might consider when it reauthorizes this program.

Other federally supported traffic enforcement programs that do address driver error are stretched so thin that the attention directed at truck and bus drivers is minimal at best and unevenly spread among the States. In fact, NHTSA-funded grants provide primarily seed moneys for numerous safety projects and do not meet the long-term needs of the commercial vehicle enforcement community.

Consequently, to avoid duplicative grant applications and to ensure quality control and proper training, it would be more efficient to expand MCSAP than to create a separate truck-oriented enforcement program under NHTSA's control.

Point No. 2. MCSAP could substantially strengthen its role in alcohol and drug use enforcement and drug interdiction. Congress could consider specifying a definitive role for MCSAP in drug interdiction and alcohol and drug use enforcement activities.

For example, States could much more carefully detail in their grant applications how MCSAP dollars will address these national concerns. Additional MCSAP dollars also could be used to conduct more training of officers on how to recognize the impaired driver and to conduct alcohol-use testing under legally acceptable conditions. Increased availability of court-certified breath analyzers at the roadside would help improve enforcement.

Point No. 3. Increased enforcement of the commercial driver's license would remove more suspended drivers from the highway. Because the status of a driver's license is generally not checked thoroughly in many States, the roadside inspection may often not detect suspended drivers. If a more effective driver-oriented inspection is desired, more checks of the CDL status are needed.

Existing technology is available at a reasonable cost to promote effective enforcement of the CDL. For example, we estimate that for less than \$5 million 500 MCSAP units could be furnished with a radio-based system to communicate directly with the National Law Enforcement Telecommunications System or some other data base to check annually the licenses of 1 million commercial drivers at inspection sites.

Point No. 4. Innovation and growth in MCSAP could be fostered by research and development. The R&D dollars that underpin progress in MCSAP are extremely limited. There is no separate authorization to develop the technology needed to strengthen MCSAP. Such research is funded out of Federal Highway's budget or out of discretionary MCSAP funds. Because there are numerous competing demands on these dollars, Congress might consider establishing a separate R&D account to improve the effectiveness of MCSAP inspections.

Point No. 5. Approximately \$65 million of Federal funds per year would be needed to maintain a vigorous and comprehensive MCSAP effort with incremental growth. Substantially more would be needed if a targeted weight enforcement program is to become eligible for reimbursement under MCSAP.

And my last conclusion: Federal Highway's proposal to allow weight enforcement as an eligible expense under MCSAP raises some concerns. Weight enforcement is heavily funded by many States and generates substantial revenues. If Congress wants to ensure that the benefits of MCSAP continue, it would be important to ensure that the weight enforcement does not overshadow the more traditional safety functions of MCSAP.

This could be accomplished by: One, requiring that the amount of dollars previously devoted to traditional MCSAP safety activities be at least maintained; and two, that the current amount of State expenditures for weight enforcement be maintained to prevent added Federal dollars from simply replacing State dollars spent for this purpose.

The bill you introduced yesterday does account for those two concerns. Congress could also specify that any Federal funds spent on weight enforcement under MCSAP must be coupled with a motor carrier inspection and must not be used for weighing activities at a fixed facility. Your bill also does that. This approach would maximize the safety benefit of every Federal dollars spent on weight enforcement. Mobile officers that combined MCSAP inspections and

weight enforcement during the same stop of a commercial motor vehicle would target drivers that attempt to avoid fixed weighing and inspection facilities.

Thank you.

[The prepared statement of Dr. Rothberg follows:]

PREPARED STATEMENT OF DR. PAUL F. ROTHBERG

At the request of the Chairman and Ranking Member of the Senate Commerce, Science, and Transportation Committee, CRS evaluated the effectiveness of the Motor Carrier Safety Assistance Program (MCSAP) and examined options that might be considered during its reauthorization. This testimony is based on a three-year-long review of this program, including discussions with over 100 State, Federal, and industry employees concerned with truck and bus safety and visits to inspection sites in eight States. We appreciate the Committee's publication of our three reports dealing with MCSAP, especially our latest report entitled "Reauthorization of the Motor Carrier Safety Assistance Program: Options Intended to Improve Highway Safety."

MCSAP is among the largest and most successful Federal/State efforts designed to promote commercial motor vehicle safety. This program has helped to save lives, decrease the number of injuries, and reduce accident rates of crashes involving commercial motor vehicles. MCSAP inspectors continue to find a high out-of-service rate for critical safety violations. This alone argues for continuation of the core roadside program.

The Surface Transportation Assistance Act of 1982 which created MCSAP has served this program well during the 1980s. Consequently, Congress could simply reauthorize MCSAP with a few minor changes and provide the amount of funds necessary to ensure that it continues to be successful. This approach, however, would not fully develop the potential contributions of this program to highway safety.

Despite the numerous contributions of their work, MCSAP inspectors are not conducting either a comprehensive or a strategically designed program. In order to substantially strengthen program results, many MCSAP inspectors would need to place increased focus on the driver. By doing so, MCSAP officers would likely improve the effectiveness and targeting of their inspections, which could be expected to reduce truck and bus accident rates below current levels. There are three key ways that these MCSAP officers could increase their focus on the driver.

First, the flexibility, comprehensiveness, and strategic design of MCSAP would be strengthened if MCSAP officers were encouraged and reimbursed to conduct targeted traffic enforcement activities, but only when coupled with a follow-up inspection appropriate to the highway situation and the training of the officer. Second, many MCSAP officers could substantially improve their training on how to recognize the impaired driver. Properly trained, equipped, and motivated MCSAP officers could provide increased enforcement of alcohol and drug use and possession laws. Finally, using existing technology, MCSAP officers could much more effectively enforce the commercial drivers license, the initiation of which was so strongly supported by this Committee.

This key safety program has matured to the stage where enforcement officers from essentially all of the States are ready, willing, and able to expand MCSAP, if sufficient funds are available. These improvements would require additional monies probably out of the Highway Trust Fund, but the potential benefits of pursuing these changes are likely to outweigh the costs if only a minor decrease in accident rates result.

I would now like to elaborate on seven key points and observations.

No. 1. In Order to Further Reduce Accident Rates, MCSAP, Which is Primarily Oriented Toward the Vehicle, Would Need to Focus Increased Attention on the Driver's Operating Performance.

Although accident causation is difficult to determine, there is a large body of knowledge that indicates that driver error is the major cause of accidents involving commercial motor vehicles. This conclusion is reached in numerous studies and is confirmed by the experiences of safety experts that we interviewed for this study.¹

MCSAP is not currently designed or intended to address effectively "on highway" driver errors that involve such critical safety violations as speeding, improper lane

¹Fatigue may cause a great deal of driver error, but it is difficult to measure and enforce against, other than by reviewing driver log books, which is an enforcement strategy that has major limitations.

changes, and following too closely. MCSAP does not pay for on-highway traffic enforcement activities.² If Congress allowed traffic enforcement activities when coupled with an inspection to be reimbursable under MCSAP, this program could be expected to save more lives and reduce existing problems with splintered and unevenly effective highway safety programs now affecting commercial drivers.

Other federally supported traffic enforcement programs, which are managed by the National Highway Traffic Safety Administration (NHTSA), that do address driver error are stretched so thinly that the attention directed at commercial drivers is minimal at best and unevenly spread among the States. In fact, NHTSA-sponsored traffic enforcement activities are not designed or intended to meet the long-term needs of the State and local truck and bus enforcement community. Consequently, because of the nature of NHTSA's Section 402 grant program, it would be more effective and efficient to expand MCSAP than to create a separate program to increase traffic enforcement related to commercial vehicles under NHTSA's control.

No. 2. MCSAP Could Substantially Strengthen Its Role In Alcohol and Drug Use Enforcement and Drug Interdiction.

In the law authorizing MCSAP, there is no specific guidance regarding the use of MCSAP funds for alcohol and drug enforcement and drug interdiction activities. The extent to which FHWA and the MCSAP States will continue their support of these drug-related activities under MCSAP is uncertain and depends heavily on the availability of funds.

As part of reauthorization, Congress could consider specifying a definitive role for MCSAP in drug interdiction and alcohol and drug use enforcement activities. For example, in their State Enforcement Plans which are required as part of the grant submittal, States could more carefully detail how they will use MCSAP dollars to address these national concerns. Although one could argue that anti-drug efforts are heavily funded through other programs and that MCSAP funds used for drug interdiction and testing activities reduce the amount of MCSAP funds available for other purposes, MCSAP officers do have a unique and frequent opportunity to make a contribution to our Nation's drug enforcement efforts.

Additional MCSAP dollars also could be used to conduct more training of officers on how to recognize the impaired driver and to conduct alcohol and drug use testing under legally acceptable conditions. Increased availability of on-scene and legally acceptable breath analyzers would help improve enforcement. MCSAP funds have rarely been used to pay for alcohol detection equipment; and only rather limited NHTSA funds targeted at commercial operators are available for this purpose.

No. 3. Increased and Improved Enforcement of the Commercial Drivers License and Driver Log Book Requirements Would Remove More Disqualified and Fatigued Drivers from the Highway.

MCSAP inspectors examine driver's licenses, log books, and medical cards. Because log books can be falsified easily and because the status of the driver's license is generally not checked thoroughly in many States, the roadside review of the driver conducted as part of a MCSAP inspection may often be of questionable value. If a more effective driver-oriented inspection is desired, more checks of the status of drivers' commercial licenses and the validity of drivers' logs are needed.

Modern technology is available at a reasonable cost to allow effective implementation of such an objective. For example, CRS estimates that for roughly \$4 to \$5 million, some 500 MCSAP units could tap into an electronic inquiry system that would communicate with the National Law Enforcement Telecommunications System (or some other license information system) to check the licenses of 1 million commercial drivers at inspection sites each year. Such a system would ensure effective enforcement of the CDL for which the Federal Government has already invested more than \$60 million.

No. 4. Innovation and Growth in MCSAP Could Be Fostered By Research and Development (R&D) and Technology Transfer Activities, Including Timely Evaluation of New Technologies.

The R&D dollars that underpin progress in MCSAP are extremely limited. There is no separate R&D and technology transfer account to advance the MCSAP effort. Research for this program is funded out of the R&D budget of FHWA's Office of Motor Carriers (OMC) or out of discretionary MCSAP funds. Because there are numerous competing demands on these dollars, Congress might consider establishing a separate R&D account to support advances needed to make maximum, cost-effective use of technology in MCSAP. These funds could be used for a variety of pur-

² An exception to this is a \$300,000 initiative funded in the FY 1991 DOT Appropriations Act.

poses, including the continuation of a long-term R&D program to develop a reliable and legally acceptable means to detect driver fatigue. Such a proven technology, if achievable, would improve the effectiveness of the MCSAP inspection.

No. 6. Approximately \$55 to \$70 Million of Federal Funds Per Year Would Be Needed to Maintain a Vigorous MCSAP Effort With Incremental Growth; Substantially More Would Be Needed if a Targeted Weight Enforcement Program is to Become Eligible for Reimbursement Under MCSAP.

In MCSAP reauthorization for FY 1992 through FY 1994, Congress could consider substantially strengthening this successful program, which is now funded at roughly \$48.5 million per year. Our analyses presents four different funding options: #1) a "small increase" option to \$55 million per year which would fund minimal growth of the current effort but no traffic enforcement activities targeted at commercial operators; #2) a "minor increase" option to \$60 million annually with increased traffic enforcement; #3) a "moderate increase" option starting at the \$65 million per year level with funds available for a comprehensive effort; and #4) an "expansive" option to \$70 million per year with substantial funds available for a vigorous effort.

If Congress decides to include weight enforcement as an eligible MCSAP expense, reasonable cost estimates suggest that roughly \$70 to \$100 million per year would be required for these same options.

In deciding the future level of MCSAP funding, it is of key importance to consider the current funding situation. Competition for discretionary MCSAP funds is extremely intense and some States must depend on discretionary grants to support inspector personnel.³ Without additional funds, a decline in the benefits that have resulted from this program can be expected. With additional funding, there are opportunities to apply new initiatives, technologies, and more strategic approaches to improve MCSAP and motor carrier safety.

No. 6. The Administration's Proposal to Include Any Type of Weight Enforcement as an Eligible Expense Under MCSAP Raises Several Concerns.

If Congress wants to ensure that the benefits of MCSAP continue, it would be important to ensure that weight enforcement, which is already heavily funded by many States and is a major revenue generator, does not overshadow the more traditional safety functions of MCSAP. This could be accomplished by requiring that the amount of Federal MCSAP dollars previously devoted to traditional safety activities be maintained. Further, it would be important to require the current level of State expenses for weight enforcement to be maintained to prevent added Federal dollars from simply replacing State dollars already being spent for this purpose.

To maximize the safety benefit of every Federal dollar spent on MCSAP, Congress could specify that any MCSAP funds spent on weight enforcement must be closely coupled with identified motor carrier safety problems in a particular State. An example of closely coupling weight enforcement with safety is the use of roving teams of officers that combine MCSAP inspections, traffic enforcement activities, and weight enforcement during the same stop of a commercial motor vehicle. Such teams also could target drivers that attempt to avoid fixed weighing facilities.

No. 7. Amendments to the Surface Transportation Assistance Act of 1982 Would be Needed if MCSAP is to Become a More Comprehensive and Effective Program.

The Surface Transportation Assistance Act of 1982 (STAA), which established MCSAP, provides rather limited congressional guidance on the scope, nature, and extent of MCSAP. If MCSAP is to evolve into a more comprehensive and strategically designed program, several amendments to the STAA would be necessary. The options presented in this statement are categorized according to four broad areas: the driver, effectiveness and efficiency, administrative concerns, and uniformity. Because achieving a balance between specificity and flexibility is important, only some options are presented as potential requirements.

Legislative options include the following:

INCREASE ATTENTION ON THE DRIVER

Option #1 would require that an appropriate but substantial percentage of the MCSAP inspections conducted by the start of FY 1994 check the status of the Commercial Driver's Licenses, and authorize up to \$5 million to be spent over the next three years on the purchase and use of technology necessary to implement this requirement;

³ Discretionary grants are subject to availability each year and are not distributed by any formula. For purposes of this testimony, discretionary funds are all MCSAP funds other than those provided under the basic formula grant.

Option #2 would strongly encourage, perhaps even require, the MCSAP States to conduct targeted traffic enforcement efforts coupled with MCSAP inspections focused primarily on the driver;⁴

Option #3 would provide sufficient funds to train police traffic personnel other than designated MCSAP officers to conduct primarily "driver only" MCSAP inspections in conjunction with traffic stops initiated because of "probable cause" observations;

Option #4 would encourage the States to participate in MCSAP's drug awareness and interdiction activities and alcohol and drug enforcement by providing funding to cover the costs of participation. The type of participation will vary with the training and enforcement responsibility of the officer;

Option #5 would establish specific congressional guidance on the role that MCSAP should have in the enforcement of the .04 percent blood alcohol concentration restriction, e.g., by establishing specific requirements in the grant application process for increased alcohol awareness training and enforcement;

Option #6 would encourage MCSAP States to provide more educational assistance to the motor carrier industry, and in cooperation with NHTSA, to conduct effective "safe driving" education programs for both the motor carrier industry and the motoring public;

INCREASE EFFECTIVENESS AND EFFICIENCY

Option #7 would promote more commercial enforcement activities by local government officers that meet CVSA certification standards, follow CVSA procedures, and are overseen by the State lead agency;

Option #8 would improve the comprehensiveness and quality of the hazardous materials inspections funded by MCSAP by providing for additional training targeted for a select group of specially trained and motivated officers; additional Federal cost up to \$2 million over three years;

Option #9 would require States and participating local governments to submit accident and inspection information to SAFETYNET;

Option #10 would authorize weight enforcement to be an eligible MCSAP expense but only when coupled to a MCSAP inspection and a specific safety problem;

IMPROVE FHWA OR MCSAP ADMINISTRATIVE IMPLEMENTATION

Option #11 would require FHWA to conduct a formal rulemaking that might lead to changes in the current formula used to determine the distribution of MCSAP funds. In addition to those factors now used, FHWA could be directed to consider the feasibility of including such factors as the depth and dimensions of a State's motor carrier safety efforts; the extent of and progress towards addressing a State's motor carrier safety problems including its accident statistics; the productivity, effectiveness, and efficiency of a State's efforts; the degree of compatibility of a State's motor carrier safety regulations with the Federal regulations; and ways to reward innovative and successful programs;

Option #12 would provide FHWA headquarters and field offices with an adequate number of staff to effectively manage the increased scope and responsibilities inherent in any statutory expansion of MCSAP;

Option #13 would establish a separate research, development and technology transfer account under MCSAP (similar to NHTSA's 403 program) for use by FHWA with State assistance to advance innovations that strengthen and improve MCSAP;

Option #14 would require States to calculate a new baseline using an average of FY 1988, 1989, and 1990 State expenditures allocated for commercial motor carrier safety to ensure that any additional Federal dollars allocated for MCSAP are not substituted for State dollars;

Option #15 would specify that a driver convicted for the first time of violating an out-of-service citation shall be disqualified from driving a commercial motor vehicle for a period of not less than one year and be penalized \$1,000, and then disqualified permanently thereafter for a second offense in addition to receiving another \$1,000 penalty. Also, Congress might specify that any carrier that requires a driver to violate an out-of-service citation shall be subject to a civil penalty of up to \$20,000;

IMPROVE UNIFORMITY

Option #16 would clarify the intent of the Surface Transportation Assistance Act of 1982 regarding requirements for the compatibility of State interstate and intra-

⁴The type of inspection would depend on the roadside conditions and the training of the officer.

state motor carrier safety regulations with the Federal regulations as a condition for receiving MCSAP funds;⁵

Option #17 would encourage the States to conduct more inspections of drivers and vehicles operating in the former commercial zone areas (or exempt intracity areas), including those vehicles with a gross vehicle weight rating of 10,001 to 28,000 pounds;

Option #18 would encourage more of the States to conduct more safety and compliance reviews or similar types of audits compatible with FHWA policies and procedures;

Option #19 would authorize or direct FHWA to develop specific guidelines for MCSAP inspectors describing when and the conditions under which buses should be inspected using MCSAP dollars. These guidelines could be designed to minimize the potential safety risks of such inspections and to minimize inconvenience to passengers. Such guidelines could be developed in cooperation with the American Bus Association, United Bus Owners of America, and the Commercial Vehicle Safety Alliance;

Option #20 would require FHWA, in consultation with the CVSA and other appropriate organizations, to prepare a report on the problems associated with the issuance of penalties resulting from violations noted during MCSAP-sponsored enforcement activities. The report could also address the acceptance level of the CVSA recommended penalty schedule;⁶

Option #21 would require FHWA, in consultation with CVSA, to conduct a study on the use and effectiveness of the CVSA decal and to recommend ways to increase the acceptance of the CVSA decal.

Substantial progress towards implementing all of these options, except for option #10 dealing with weight enforcement, would require adding a minimum of roughly \$13 million dollars annually to the MCSAP budget. Funding for most of these options would require additional monies to be drawn from the Highway Trust Fund, which finances MCSAP. Monies from this fund already support a variety of other national transportation needs and important safety programs, such as road construction and other highway safety programs.

The following table presents one or two of the major expected costs and benefits of each of the options discussed in the report.

	Major benefit	Major cost or disadvantage ¹
Increased Attention on the Driver		
Option #1. Increased CDL enforcement.	Get disqualified drivers off the road ...	Roughly \$4 to \$5 million initial cost to set up communication systems.
Option #2. Traffic enforcement when coupled to an inspection to be an eligible MCSAP expense.	Targeted to driver errors which are major factors in accident causation.	Costs roughly \$5 to \$10 million per year.
Option #3. More training funds to promote more driver-only inspections by non-MCSAP officers.	More attention to driver, which is the major causal accident factor, increased leverage of more officers.	Minimal cost; already part of core program.
Option #4. Increased drug and alcohol enforcement.	Get impaired driver off the road	Costs probably less than \$2 million per year.
Option #5. Establish specific requirements in the SEP process for increased role that MCSAP should play in alcohol enforcement.	Underscores the importance of this activity.	Some could say it is not needed because it is already part of inspection process.

⁵The Federal/State partnership embodied in MCSAP has demonstrated numerous benefits of a cooperative relationship in promoting motor carrier safety. Continuing difficulties in this relationship are largely attributable to uncertainties regarding the need to achieve uniformity primarily between intrastate motor carrier safety regulations and Federal motor carrier safety regulations. Congress may wish to clarify the intent expressed in the Surface Transportation Assistance Act as to whether and the extent to which these two types of regulations should be compatible and what compatibility means.

⁶If the current CVSA efforts at promoting uniformity in penalty assessments prove unsuccessful, Congress might consider authorizing the Secretary to develop a specific penalty schedule that must be implemented by all governmental entities receiving MCSAP funds. This would be extremely difficult to implement effectively.

	Major benefit	Major cost or disadvantage ¹
Option #6. Increased public/driver education program to augment existing efforts.	Increased focus on the public's role in safety.	Minimal cost.
Increased Effectiveness and Efficiency		
Option #7. Increased use of local enforcement officers, especially in areas formerly known as commercial zones.	More inspections off the interstates and major roads, increased enforcement in the former commercial zone.	Additional costs to the core program; quality control must be maintained.
Option #8. Improved enforcement of hazardous materials transportation regulations.	Improved safety of these shipments ...	Cost up to \$2 million over 2- to 3-year period for additional specialized training.
Option #9. Required submittal of information to SAFETYNET.	Improved national data base	Part of the core program; micromanagement.
Option #10. Weight enforcement designed to address specific safety problems.	Increased safety, biggest safety bang for the buck.	Substantial costs in the \$15 to \$30 million per year range.
Improved FHWA or MCSAP Administrative Implementation		
Option #11. Revise the distribution formula for MCSAP funds.	Fairer distribution may be possible; also one that rewards innovative MCSAP activities.	FHWA believes the current formula works well.
Option #12. Additional FHWA staff to administer and manage MCSAP.	Increased Federal oversight of State expenditures.	Costs less than \$200,000 a year, some State officials believe that there is already too much Federal management of this program.
Option #13. Separate research, development; and technology transfer account for MCSAP.	Improve the technological foundation for MCSAP.	About \$2 million a year.
Option #14. Require States to calculate a new baseline of expenditures to implement MCSAP's 80/20 formula.	Ensures that Federal dollars are not substituted for State dollars currently allocated for motor carrier safety.	Minimal costs.
Option #15. Specify strict penalties for drivers convicted of violating an out-of-service order.	Increase the risk of a driver trying to subterfuge the purpose of MCSAP.	Stiff penalties that could take away someone's job for a year.
Improved Uniformity		
Option #16. Clarify 1982 congressional intent regarding State intra-state regulatory compatibility with Federal regulations.	Promotes compliance, could reduce conflict between some MCSAP States and FHWA.	Some States could drop out of MCSAP if Congress sides with FHWA's policy of uniformity and its interpretation of the 1982 statute.
Option #17. More inspections in the commercial zone.	Levels the playing field for different operators, promotes a more comprehensive MCSAP.	Cost of \$2 to \$3 million per year.
Option #18. Broader State participation in more safety and compliance reviews.	Would help FHWA reduce its workload backlog.	Fewer roadside inspections, less money available for other MCSAP activities.
Option #19. Guidelines for locations of bus inspections.	Could lessen chance of accidents during inspections.	Micromanagement. Does Congress need to get involved?

	Major benefit	Major cost or disadvantage ¹
Option #20. Report on issuance of penalties by MCSAP States.	Oversight of a continuing problem	Minimal cost.
Option #21. Report on use of CVSA decal.	Oversight of a continuing problem	Minimal cost.

¹ Increased enforcement may result in some cases in increased transportation costs.

PERFORMANCE-ORIENTED APPROACH

An alternative approach to the various options previously outlined would be for Congress to: increase substantially the amount of funds available for MCSAP, and specialize in the reauthorizing legislation that MCSAP States in their State Enforcement Plans shall design programs to accomplish certain national objectives, such as:

- getting the impaired commercial driver off the road, e.g., by increasing alcohol and drug use enforcement;
- ensuring that effective enforcement of the commercial drivers license and relevant traffic regulations is occurring;
- devoting sufficient attention to the enforcement of regulations pertaining to bus and hazardous materials transportation safety;
- supporting adequate drug interdiction activities involving commercial motor vehicles relative to the size and extent of the problem in a specific jurisdiction;
- promoting effective use of local governmental enforcement officers to promote commercial vehicle safety; and
- ensuring compliance with the motor carrier safety and hazardous materials transportation regulations.

When compared to the option of earmarking of funds for specific objectives within MCSAP, this type of performance standard would provide maximum flexibility to FHWA and State program managers. FHWA would be assigned the responsibility to ensure that each of the State's are implementing these objectives. Flexibility to continue to meet specific State and local safety problems would remain important.

This approach, however, substantially constrains congressional opportunities to influence the future direction and allocation of funds within the MCSAP. It is also uncertain whether FHWA would ensure that the States implement motor carrier safety programs that accomplish all of these objectives; congressional oversight might be adopted as considered appropriate.

Another alternative would be to add these and other performance-oriented objectives to the organic legislation that established MCSAP together with one or two earmarkings of funds in areas considered by Congress to be especially important. These might include \$1.5 million per year for the next three years for increased CDL enforcement including a check of the status of the licenses presented by drivers at inspections, and \$5 million per year for increased traffic enforcement coupled with a MCSAP inspection. This approach could provide for maximum flexibility while providing some assurance that funds are spent on high priority areas of concern to Congress.

Senator EXON. Doctor, thank you very much.

Mr. Henry, we will proceed to you and then we will have questions that we will maybe ask the panel, that you both may wish to comment on the questions that we will have for you. I am pleased to recognize you at this time.

STATEMENT OF PAUL HENRY, DEPUTY ADMINISTRATOR, TRANSPORTATION SAFETY DIVISION, OREGON PUBLIC UTILITY COMMISSION, REPRESENTING COMMERCIAL VEHICLE SAFETY ALLIANCE; ACCOMPANIED BY MAJ. STEVEN ANDERS, FIRST VICE PRESIDENT, CVSA

Mr. HENRY. Thank you very much, Mr. Chairman and committee members.

Joining me at the witness table is Maj. Steve Anders, our first vice president, from the State of Kentucky.

Mr. HENRY. I am the immediate past president of the Commercial Vehicle Safety Alliance. CVSA is an organization of 49 States

and enforcement of motor carrier safety laws in the United States, Canada, and soon Mexico.

CVSA is pleased to discuss with the committee the reauthorization of the MCSAP. Alliance jurisdictions are responsible for the enforcement of motor carrier safety and hazardous materials regulations, both in interstate and intrastate commerce.

CVSA is also composed of approximately 300 associate members who are committed to the Alliance's goals. The major accomplishments and structure of our Alliance are contained in our written testimony.

CVSA believes strongly that MCSAP has been a very successful program and that its Congressional intent has been realized. On the State level, new programs have been started and existing programs have been enhanced, leading to an overall increase in highway safety. There have been improvements in truck and bus operations, with positive reactions from all affected parties.

The route to national uniformity we believe is through training. Training is critical at all levels and for all operations. To accomplish this we need the support of Congress through its wisdom and obligation to provide direction and financial resources.

A poll of the operating industry today on uniformity might prove disappointing. While the Alliance's uniform inspection and out-of-service work constitutes significant improvements over the arbitrary road checks of yesteryear, the disparity of fines imposed by jurisdictions today remains at yesteryear's level.

Our efforts to develop the recommended maximum fine schedule are a step in the right direction. The Alliance solicits the assistance of Congress in obtaining support and implementation of this schedule by the judiciary and the various State legislatures.

It also becomes clear that the issue of reciprocity needs to be addressed. Redundant inspections drain the operating resources of the industry, MCSAP, and the States. CVSA urges the use of its internationally developed and recognized decal program to assist in solving this important reciprocity issue.

All CVSA members involved in the enforcement of safety and hazardous materials regulations agree that interstate commerce must be governed by compatible regulation. The problem arises in the area of intrastate commerce and the right of State jurisdictions to regulate commerce within their borders. There are differences and the jurisdictions cannot violate their own State laws.

Although CVSA believes there is no authority resident in the Surface Transportation Assistance Act of 1982 allowing for preemption of State intrastate safety requirements, we do support the development of reasonable intrastate tolerance guidelines, providing that: one, those guidelines were developed pursuant to a rulemaking allowing all parties an opportunity to comment; and two, States unable to comply with the intrastate tolerance guidelines be allowed to continue their participation in the MCSAP if they meet interstate compatibility requirements; and three, an incentive program be established to encourage States to meet the guidelines.

Absent implementation of each of these safeguards, we believe there exists a very real threat that States will secede from the MCSAP, uniformity achieved to date will be lost, and the

nonuniform treatment experienced by industry pre-MCSAP will once again be before the Congress.

Relating to the Alliance's position on size and weight, we offer the following. Many of the members of our Alliance are from agencies which have the State's responsibility to also perform size and weight enforcement.

There is a concern among CVSA membership that MCSAP's credibility could be seriously compromised if the programs are combined. If the Congress elects to provide MCSAP dollars for the further enhancement of size and weight enforcement, the resultant programs should be clearly tied to safety inspections at points where high numbers of safety and weight violations can be detected.

Every State now participating in MCSAP had to provide data to the FHWA indicating the level of effort that was ongoing in their State prior to the MCSAP. However, since that base year level was established, many States have increased their original State funding levels. It would seem counterproductive for the Congress to penalize the initiative of these States by now requiring the base year to be moved forward, incorporating increased State budgets, with the threat of losing MCSAP funds if the State budget were not maintained at the higher level.

The Alliance does not believe Congress wishes to create a situation whereby States, (a) are now being penalized because of their initiative to improve commercial vehicle safety, and (b) must now be dropped from the national program because they cannot quality to meet an unreasonably high State funding level.

If the Congress wishes to move the base year computations forward to encapsulate reasonable growth, we recommend that consideration be given to averaging the increases in State expenditures for commercial vehicle safety over the period since their participation in the MCSAP.

Regarding funding, our written testimony addresses funding levels for the fiscal year 1992-96 period, training, administrative costs, and a monetary compatibility incentive program.

In conclusion, Mr. Chairman, our Alliance applauds the work of your committee and welcomes the opportunity to continue in its discussion concerning the reauthorization of the MCSAP. On behalf of our Alliance, I thank the committee for the opportunity to appear here today and to express the views of our member jurisdictions.

Both Major Anders and myself welcome any questions you and your committee may have.

[The prepared statement of Mr. Henry follows:]

PREPARED STATEMENT OF MR. PAUL HENRY

Mr. Chairman, Committee Members, Committee Staff, my name is Paul Henry and I am the immediate past President of the Commercial Vehicle Safety Alliance ("CVSA" or "Alliance"). CVSA is an association of state and provincial officials responsible for the administration and enforcement of motor carrier safety laws in the United States and Canada. The Alliance is a not-for-profit organization, established to promote uniformity in motor carrier safety enforcement. With the exception of Florida, which is a member of CVSA but which has been excluded by the Federal Highway Administration ("FHWA") from participation in the Motor Carrier Safety Assistance Program ("MCSAP"), every state that is a member of the Alliance is also

a participant in MCSAP. CVSA welcomes this opportunity to discuss with the Committee the reauthorization of the MCSAP.

CVSA member jurisdictions are responsible for administering and implementing interstate and intrastate motor carrier safety and hazardous materials regulations. Membership in CVSA is voluntary and includes U.S. States and Territories, Canadian provinces and territories, and soon Mexico and its states, represented by various Departments of Transportation, Public Utility Commissions, State Police, Highway Patrols, Public Service Commissions, and Ministries of Transport. The major activities of alliance members are based upon four central themes: Inspection, Uniformity, Reciprocity and Compatibility. CVSA is also composed of approximately 300 associate members who are committed to helping the Alliance achieve its goals. These associate members include various federal agencies, truck and bus companies, industry associations, manufacturers, research organizations, commercial vehicle drivers, and individuals dedicated to highway safety.

The Commercial Vehicle Safety Alliance was founded in 1980 and has been an international organization since its origin. The reasons for the initiation of the Alliance included conservation of inspection resources, economizing, and avoiding redundancy in vehicle inspections. The major accomplishments of the Alliance include:

- the unification of commercial vehicle safety on an international basis by including Mexico and Canada in the program;
- the development of various levels of inspection, including the North American Standard inspection for commercial motor vehicles;
- the development of uniform out-of-service criteria for drivers, vehicles and hazardous materials;
- the development of a uniform training curriculum for state and provincial vehicle inspectors;
- the development of uniform sanctions and fines schedules; and
- the development and implementation of a decal program for inspection reciprocity.

The Alliance's relationship with MCSAP is a complementary one. In addition to similarities in goals and objectives, MCSAP membership and CVSA membership are comparable. In fact there are more U.S. enforcement agencies that have signed memoranda of understanding in the CVSA program than participate in the MCSAP program. CVSA has striven to implement the activities of MCSAP and to provide continual training for the inspection process. The standing committees of the CVSA, which include Vehicle, Driver, Hazardous Materials, Bus, Uniform Sanctions, Research and Training, Compliance Analysis, Size, Weight and Enforcement, and Data, provide the forums through which the federal regulations as well as the MCSAP program are continually refined and improved.

GENERAL COMMENTS OF THE ALLIANCE

CVSA believes strongly that MCSAP has been a successful program and that its congressional intent has been read through the attention of states, the attention of industry, and the attention of various government agencies. On the state level new programs have been started and existing programs have been enhanced, leading to an overall increase in highway safety. There have been obvious improvements in truck and bus operations, with positive reactions from manufacturers, carriers and drivers. In addition, the insurance industry has been extremely supportive of the initiatives that have been undertaken. Government reaction to the MCSAP success has also been positive, and has been recognized through a number of GAO reviews as well as the Library of Congress reports. In addition, the CVSA initiative has been significant in the furtherance of free-trade relationships with Canada and Mexico.

SPECIFIC COMMENTS OF THE ALLIANCE

Mr. Chairman, I believe we have established the role that CVSA has played during the infancy and early youth of the MCSAP. As the recognized domestic and international organization dedicated to the improvement of commercial vehicle safety on the North American continent, CVSA strongly supports the passage of enabling legislation which will permit continued federal participation in a partnership with the states and territories of this Nation.

CVSA is pleased to offer its recommendations on the operation of the existing MCSAP for the Congress to consider in the formulation of any reauthorizing legislation which may be forthcoming. Frequently, during the last ten years, the Executive Branch has had to resort to administratively interpreting the intent of the Surface Transportation Assistance Act of 1982. Many times, the states and the FHWA have not been in accord. In order for the MCSAP to more fully serve the public, CVSA

recommends that Congress minimize the necessity for contentious administrative interpretations.

In addition, CVSA solicits Congressional assistance to emphasize the essential need for uniform operations and treatment of the industry by the states and territories. The industry, if it is to weather our present time of economic stress, must be assured it will receive uniform safety treatment from all inspecting jurisdictions.

The primary route to uniformity is through training. If we are to have a successful program which practices uniformity, we must teach uniformity to the safety enforcement community. Training is critical at all levels and for all operations. The states' resources are available, the community is ready, the industry is begging, and the FHWA is willing. All, however, need the support of Congress, both through its wisdom and obligation to provide direction and through the provision of financial resources.

In addition to the traditional financial support, Congress may wish to recognize the uniformity efforts of the CVSA in establishing the inspector certification program. The requirement for inspector training and certification leads to the professionalism and credibility of the enforcement community as well as the respect of the commercial motor vehicle industry.

Unfortunately, if we were to poll the operating industry today, we might find ourselves disappointed. While the CVSA uniform inspections are a significant improvement over the arbitrary roadchecks of yesteryear, the variety and disparity of fines imposed by jurisdictions remains at the yesteryear level. The same violation on the same vehicle has resulted in two distinctively different sanctions (up to a \$2,400 difference), dependent on the location of the vehicle at the time the violation was detected. This is not uniformity. This is not fair. This will neither improve highway safety, nor make the motoring public safer.

CVSA has addressed this weakness in the national program. Our efforts to develop the Recommended Maximum Fine Schedule was certainly a step in the right direction and has the support of the enforcement community, operating industry and especially the drivers. However, members of CVSA are the enforcement community and not the judiciary or the legislature. We can develop recommendations, but it will be of little use unless the judiciary and the various legislatures they are designed to help accept and implement its provisions. CVSA solicits the assistance of Congress in obtaining support and implementation of the Recommended Maximum Fine Schedule.

We now have the problem of inconsistency of fines and sanctions between states and territories. It is difficult to estimate what we can expect when and if city and county governments are introduced to the program. Instead of the fifty-odd jurisdictions engaged in safety enforcement and imposing fifty different varieties of sanctions, we will have an unknown number of jurisdictions operating under the cloak of MCSAP, each administering its own fine schedule.

It is also imperative that CVSA bring to the attention of the Congress the absolute necessity to safeguard inclusion of city and county governments operations under MCSAP with a provision that the city or country jurisdiction fall under the sponsorship and control of an authorized state agency. Failure to incorporate a provision with this philosophy would subject the industry to multiple regulations, procedures and operations. It is important to note the consensus of state enforcement agencies in CVSA are opposed to the blanket inclusion of city and local governments in MCSAP.

It also becomes quite clear that the issue of reciprocity, unaddressed by the existing MCSAP, needs to be addressed. Redundant inspections drain the operating expenses and resources of the industry and are a waste of MCSAP resources. CVSA urges the use of its internationally-developed and accepted "Decal Program" to resolve the reciprocity issue.

When the Congress originally authorized the MCSAP in 1982, the enabling legislation was couched in terms of a discretionary grant program. The FHWA chose to administer the grants by a formula distribution of available funds, similar to an entitlement grant program. While there is no dispute over this discretionary grant decision, there is a need for the FHWA to religiously adhere to the provisions contained in the resultant rulemaking action. Basic allocations should be made predicated on factors which are reviewed and updated annually. This allows states to estimate their basic operating budgets in advance and plan their state funding needs. The majority of states are operating successfully under these provisions.

The FHWA further provided that there would be a pool of funds available to all eligible MCSAP participants to conduct research or special programs of national scope or test innovative operations. These funds were termed "Discretionary Grants" and had to be requested separate from the basic allocation. It is recommended that Congress require the FHWA to publicly announce annually: (1) the availability of

such funds; (2) the amount of funds available; and (3) the annual special programs criteria within the national scope and innovative operations category. Disclosure of this information would allow the opportunity for all eligible states to compete for the discretionary funds. Further, this action would eliminate the third and non-competitive category of the MCSAP grant, referred to as a "secondary grant."

When MCSAP was authorized by Congress in the 1982 legislation, it was permissible for states/territories to either adopt the Federal Motor Carrier Safety Regulations, rules, standards, and orders or have compatible state regulations, rules, standards, and orders. At the time, the FHWA developed a policy that this language applied only to interstate motor carrier regulation. The FHWA did not then address the intrastate regulatory process as part of MCSAP. During the last several years of the MCSAP the FHWA policy has been revised to include the intrastate regulations of states as a qualification for obtaining MCSAP funds. This has created serious consequences for many states, specifically Florida, which was cashiered from the program because of "incompatible" intrastate regulations. Many states that have successfully performed under the program and have made significant safety gains, including the reduction of accident rates are now faced with the threat of being dropped from the program. Needless to say, these states will not be in a position to continue the employment of the majority of their MCSAP-trained commercial vehicle specialists and certified inspectors which the MCSAP now supports.

All CVSA members involved in the enforcement of safety regulations agree that interstate commerce must be governed by compatible safety regulations. The problem arises in the area of intrastate commerce and the right of state jurisdictions to regulate commerce within their borders. There are differences, and the jurisdictions cannot violate their state laws.

Although CVSA believes there is no authority resident in the Surface Transportation Assistance Act of 1982 allowing for preemption of intrastate safety requirements, it can support the development of reasonable Intrastate Tolerance Guidelines providing that: (1) the Intrastate Tolerance Guidelines are developed pursuant to a rulemaking proceeding allowing all interested parties an opportunity to comment; (2) states unable to comply with the Intrastate Tolerance Guidelines be allowed to continue their participation in MCSAP provided they meet interstate compatibility requirements, and (3) an incentive program be established to encourage states to meet the Intrastate Tolerance Guidelines. Absent implementation of each of these safeguards, there exists a very real threat that states will secede from the MCSAP, uniformity to date will be lost, and the non-uniform treatment experienced by industry pre-MCSAP will once again be before the Congress.

The CVSA recommends the Congress utilize MCSAP funding as an incentive for states to move towards inter/intrastate uniformity. The FHWA policy is to encourage uniform motor carrier safety and hazardous materials regulations for both interstate and intrastate motor carriers and drivers. The CVSA, while not in agreement with the FHWA's present approach to attain their goal, concurs there is merit, where and when possible, to a singular safety code. The use of an incentive "pool" of funds to reward states for their efforts toward regulatory uniformity, in lieu of sanctions for inability to comply, would be far more effective.

PROPOSED CHANGES

That concludes CVSA's comments on the present MCSAP. Now I would like to address the proposed changes or additional functions that are being considered for the MCSAP during the next five years. All of CVSA's comments are based on a consensus of member jurisdictions. CVSA's comments are predicated on funding continuing at a level required to support the existing operations and any additional enforcement responsibilities being federally supported with ancillary monies.

The one particular additional function considered most beneficial by over 80 percent of the members is Traffic Enforcement. Traffic Enforcement includes areas such as speed, tailgating, reckless driving, etc., as well as those enforcement areas that are not as obvious—drivers hours of service and commercial drivers license. Generally this additional enforcement will not be conducted by the existing trained inspection staff, but rather by experienced traffic officers who will receive specialized training for application in the commercial vehicle environment. The incorporation of the traffic enforcement function in conjunction with required inspection activities should prove to be a significant force to address the errant commercial vehicle driver.

The problem of the use of drugs by commercial drivers cannot be ignored. Every element of our existing society has been impacted by the importation and use of illegal drugs, which impair the normal performance of our physical bodies and mental thought processes. The function of MCSAP is to preclude the driver the opportunity

to obtain the drugs and operate his or her vehicle if he or she is impaired. In order to accomplish this responsibility, it will be necessary for states to conduct both and covert and overt operations in their jurisdictions, exchanging information between jurisdictions when interstate trafficking is involved. Most members believe the drug interdiction program would reap significant benefits immediately and could be reduced to a maintenance program in later years. Approximately 80 percent of the member agency jurisdictions support federal assistance in this critical area.

CVSA member support for the entry of city and county governments was almost non-existent. Congress should keep in mind that the present MCSAP program does not preclude city and county governments from participating in MCSAP. The case in point is the very successful programs which are now in place in states such as Oregon and Missouri. Coupled with the resources of the state, state-trained locals perform North American Standard Safety Inspections on commercial vehicle operations within their respective borders. In fact most of these city and local government inspectors have been certified under the CVSA inspector standard. The problem that arises with the introduction of a totally new and untrained work force directed by managers unfamiliar with the detailed operation of the industry is the probable return of the confusion, redundancy and arbitrary inspections of drivers and vehicles to the myriad of standards that existed in the United States prior to 1980. CVSA does not support this provision. Over 55 percent of the members of CVSA did not favor inclusion of the city and local governments even if additional funding was provided. If in the judgment of Congress, it is beneficial to include city and county governments as an entity under MCSAP, CVSA suggests that the operation of the MCSAP in that city or county government must be under the absolute direction and control of the state motor vehicle enforcement agency such as is the case in Oregon and Missouri.

Many of the members of CVSA are from agencies which have their state's responsibility to perform size and weight enforcement. Based on information collected by CVSA, it is estimated that each state expends approximately \$3.7 million state tax dollars per annum for weight enforcement. Conservatively, this amounts to \$185 million a year. MCSAP is presently funded at \$46 million federal dollars a year and supplemented with approximately \$125 million of state taxpayer dollars.

Many outspoken opponents of the size and weight program consider this function a method of generating revenue for a state. MCSAP, in its safety posture, has not generally been portrayed in this light, mostly because revenues do not exceed the amount of money a state must expend to participate in MCSAP. There is concern among the CVSA membership that MCSAP credibility could be very seriously compromised if the programs were combined. In the event that the Congress elects to provide federal dollars for the further enhancement of size and weight enforcement, the resultant programs should be very clearly tied to safety and more specifically, the activities of MCSAP. The conduct of size and weight functions should be performed in conjunction with safety inspections at points where it may be anticipated that high numbers of safety and weight violations could be detected. The classical example of this type of location would be by-pass routes around a fixed scale/inspection facility.

The membership of CVSA questions the wisdom of incorporating the economic aspects of the commercial motor carrier industry within that of MCSAP. In 1967, the judgment of the federal government was to segregate these two functions into two separate agencies. With the apparent success of MCSAP, it now appears the federal intent is to have the states also solve the interstate economic problems of the industry. That judgment may prove correct; however, it is strongly urged that consideration be given to administer the function separate from the MCSAP safety function.

The establishment of a Commercial Vehicle Information System which will include the safety fitness of registrants would be a natural outgrowth of the Safetynet computer system which the FHWA had originally scheduled for completion for MCSAP. Unfortunately the system is not yet fully operational, and in its present form will only address the needs of interstate operations unless modified to incorporate safety fitness information on intrastate carriers. Marriage of "Safetynet" inspection, accident, and SR/CR data to facilitate a concentration of resources on high-accident locations, carriers, traffic patterns, etc. will necessitate the overhaul/completion of the "Safetynet" system. CVSA would recommend that a significant portion of any funds proposed for a Commercial Vehicle Information System be redirected to the immediate need of completing an operational Safetynet System. Further, the National Commercial Vehicle Safety Data System should be modified to adopt inspection data on intrastate operations.

Both the U.S. Congress and the CVSA have had serious concerns on the reinspection of defective vehicles and driver violation of out-of-service orders. The CVSA, through the use of its working committees, has suitably addressed the issue of rein-

spection of defective vehicles. With regard to driver violations of out-of-service orders, in June of last year the CVSA petitioned the FHWA for support of a penalty against these errant drivers. While receipt of the petition has been acknowledged by the FHWA, no further activity has been forthcoming. CVSA therefore applauds any effort on the part of Congress to provide suitable sanctions for drivers who would chose to endanger the U.S. motoring public by operating commercial vehicles while they or their equipment have been found out-of-service.

MCSAP is presently federally funded at \$46 million a year and supplemented with approximately \$125 million of state funding for a total of \$171 million. This comprises a 25/75 cost sharing with the state's share being 75 percent. Based on vehicles, it is estimated that the number of interstate vehicles is equal to that of vehicles engaged in intrastate commerce on a 50/50 ratio. Based on ton-miles, it is estimated that interstate commerce far outpaces the ton-miles of intrastate in the ratio of 75 percent interstate/25 percent intrastate. Considering that the assigned responsibility of the federal government is to enforce commercial motor carrier safety in interstate and foreign commerce, and that almost all vehicle inspections are now conducted by state resources, the existing 80 percent federal/20 percent state MCSAP cost sharing ratio is a great buy for the federal taxpayer. No revision should be made in the current 80/20 cost-sharing formula.

Every state now participating in MCSAP had to provide data to the FHWA indicating the level of effort that was ongoing in their state prior to MCSAP. This was termed the "base year level of effort." This was intended to preclude the replacement of state dollars with MCSAP dollars. Some states had significant programs while others had none. However, since that base-year level was established many states have seen fit to increase their original state funding levels. This was especially true during the last ten years of reasonably good state economic revenue collections. It would seem counterproductive for the U.S. Congress to penalize the initiative of these states by now requiring the base year to be moved forward, incorporating their increased state budgets with the throat of losing MCSAP funds if the state budget were not maintained. This is especially bothersome to CVSA considering the economic hardships the states are already facing because of downward spiralling state revenues. CVSA does not believe Congress wishes to create a situation whereby states: (1) are now being penalized because of their initiative to improve commercial vehicle safety and (2) must now be dropped from the national program because they can not qualify to meet an unreasonably high required state funding level.

If the Congress wishes to move the base year computations forward to encapsulate reasonable growth, it is recommended that consideration be given to averaging the increases in state expenditures for commercial vehicle safety over the period the start of MCSAP.

The following recommendations for funding for the next five years are:

A. Basic Program

1. MCSAP (millions of dollars)—Fiscal year 1992, \$65; fiscal year 1993, \$70; fiscal year 1994, \$80; fiscal year 1995, \$90; and fiscal year 1996, \$100.

2. Administrative Takedown—.05 percent per year for the use of the FHWA to administer the MCSAP program.

3. Training Takedown—1 percent per year, for the purpose of training non-federal personnel to carry out the MCSAP. Permissible costs include the development, implementation and distribution of training manuals, documents and associated training aids.

B. Traffic Enforcement

1. Traffic/CDL Enforcement—To conduct general traffic law enforcement of commercial vehicle operation, including enforcement of the commercial licensing requirements.

C. Special/Innovative Programs

1. \$1,500,000 per year, plus; 2. Those unexpended funds returned by states/territories, plus; Those funds available after the basic allocation has been obligated and not used due to: (1) smaller requests by states/territories, (2) unused, as states/territories are in the development stage rather than the implementation stage, and (3) unused, from states/territories that could not qualify as eligible for funding, plus; 4. Those funds not awarded to states from any other takedown.

D. Compatibility Incentive

1. 10 percent per year—The pool of funds formed by this takedown, earmarked for states proportionate to the formula can be awarded to or withheld from states depending upon their degree of compatibility with federal regulations.

CONCLUSION

In conclusion, CVSA applauds the work of this committee, and welcomes the opportunity to continue in its discussion concerning the reauthorization of the MCSAP. On behalf of the Alliance, I thank the committee for the opportunity to appear here today and to express the views of our member jurisdictions, and welcome any questions that you may have.

Senator EXON. Mr. Henry, thank you very much. I will start the questioning with you to follow up on some of the interesting remarks that you made.

Let me first ask you, you heard the testimony earlier today about the significant improvement in highway safety over the last 2 or 3 years. Has that followed also in Oregon? Are you in keeping with that national trend?

Mr. HENRY. Mr. Chairman, yes, I wholeheartedly agree with the comments of your previous witnesses over the last 10 years. And you asked specifically about my State. While the levels of inspections have increased, while the numbers of miles traveled have increased significantly, the frequency of declaring vehicles out of service has been cut essentially in half. Serious defects and total defects have been cut essentially in half. The frequency of preventable truck accidents has been cut by 25 percent.

So, in conclusion, I would summarize by saying yes, that MCSAP has been a very successful program and our State experience agrees exactly with what the previous witnesses suggest.

Senator EXON. What about, did Oregon exercise the option given all States on the speed limit bill? Did you raise your speed limit to 65 or are you still at 55?

Mr. HENRY. No, sir, we did not. My State is still at 55.

Senator EXON. Still at 55.

Mr. HENRY. Yes, sir.

Senator EXON. Let me ask you a question about the number of trucks. Certainly we have more trucks hauling more goods, with a good safety record. What has been the result on the number of trucking companies?

I assume that, like in most States, you have significantly fewer trucking companies hauling goods in Oregon today than you did previously?

Mr. HENRY. No, sir, that would not be the case in my State. We have more or less, if you will, maintained the status quo in terms of the total number of companies resident in our State, as well as those operating through the jurisdiction.

However, the variety of companies conducting those operations, as you suggest, has definitely increased.

Senator EXON. But in any event, because of the programs that we have all worked together on or in spite of them, you seem to be making some significant strides in the right direction for better safety and better equipment.

Mr. HENRY. We agree and applaud that observation.

Senator EXON. Let me return to you, Dr. Rothberg, for just a moment. I believe you heard the testimony that we had from the Federal Highway Administrator. As a result of your comprehensive research of MCSAP and the role that CRS plays in providing a degree of objectivity as we consider various issues, would you like to comment on any of the statements that you heard today by the

FHWA, either things that you agree with significantly or disagree with?

Dr. ROTHBERG. I was in general agreement with many of the comments of the Federal Highway representatives. It is correct that they have exercised a tremendous amount of excellent stewardship over the existing program, but I think there are opportunities to improve MCSAP beyond what they have done to date.

Basically, my view on Federal Highway's statement is that it is not what they did tell you, but it is what they did not tell you, that is really important. And I would like to elaborate a little bit.

They talked about the funding problem, the problem of funding the first year that this reauthorization addresses, fiscal year 1992. The administration pointed out that their program only provides \$51.4 million, and they argued that sufficient time is needed to plan for the growth and development of the program and for future outlays.

Well, I take some issue with that. I would argue that the MCSAP States would jump at the opportunity to more effectively use MCSAP moneys at the increased authorization level that is provided in your bill.

I interviewed perhaps more than one-half of the MCSAP senior managers at the State level and many of the State representatives that I spoke with talked in terms of a major shortfall in their funds for next year, that they have been doing more with less because the MCSAP program has basically been level funded for the last 2 or 3 years.

So, the administration's bill does not really offer that much hope to the State people because the MCSAP program is now funded at \$48.5 million in appropriated sums and the administration's request only goes up to \$51.4 million for the next year. And I think in the State enforcement plans the States do have a vision of where they would like to take their programs.

I think the Congress should rely upon the willingness and eagerness of the State people to spend MCSAP dollars wisely.

Another point of concern that I have is the administration's statement stated that they will be able to target safety enforcement to the array of factors related to accident causation. Well, to some degree that is true, but what they did not tell you is that under existing authorizing law the MCSAP officers do not get reimbursed for the catching of the "on-highway" driver that speeds, improper lane changes, and fails to obey the rules of the road.

That on-highway activity is not reimbursable under MCSAP. If you look in great detail at what is causing the accidents on our Nation's highways, a major portion of those accidents are caused by driver error. Study after study, both the MCSAP in-depth accident reports as well as the academic literature and even Federal Highway's own studies and NHTSA's own reports, document this.

So, the issue goes back to this question, how can FHWA target the array of factors related to accident causation when they do not have now the existing authority to use MCSAP funds in that manner. And your bill will take care of that by giving the States the flexibility to determine how much they want to spend on traffic enforcement beyond a minimum level, and your bill requires that

traffic enforcement be carefully integrated into the existing motor carrier safety program.

I could go on with other concerns, but those presented are illustrative.

Senator EXON. Thank you very much.

I take it then that it is clear that you feel the funding levels in our bill, S. 631, are probably not enough that we would like to see, but certainly you support those increased funding levels in our bill over what the administration recommended?

Dr. ROTHBERG. I think the appropriateness of the funding level over the next 5 years has to consider an evaluation of the real needs of the MCSAP community and other competing demands on the Highway Trust Fund, as well as the Federal budget situation.

In general, the CRS report suggests that the levels of funding provided in the bill are somewhat generous. The bill will provide a substantial increase in funds. Just for example, the first year funding goes up over 33 percent from the amount appropriated in fiscal year 1991.

This amount of funding will provide substantial incentives for the States to expand their existing efforts and to do more drug enforcement, increase the alcohol work, and provide the opportunity to do traffic enforcement activities.

However, I would argue that it is extremely important that we recognize that there are only so many safety dollars available from the Highway Trust Fund. Important and significant NHTSA-funded programs that also contribute to other highway safety objectives are also funded out of this trust fund.

The last factor is, we cannot look at the amount of funding of MCSAP in and of itself. We need to look at the total, the two major commercial vehicle safety programs that come out of the Highway Trust Fund. So, what I am getting at is if we have authorized \$65 million for the MCSAP program, we also have to remember that the Federal Highway Administration has asked for 676 full-time positions for the Office of Motor Carrier, and the appropriations request for this program is \$49.3 million for fiscal year 1992.

So, when you add those two programs together, this is the combined total Federal appropriation for motor carrier safety. And when you put that together, we are now approaching the level where the amount of Federal dollars that is being spent on motor carrier safety is beginning to get somewhat out of proportion on the heavy side in relationship to the total number of deaths that occur annually in truck-involved accidents.

So, the bottom line is we have to do some balancing here to what types of tragedies are occurring on the Nation's highways and reflect this in how much money we spend on MCSAP. We cannot go overboard on MCSAP.

Senator EXON. Let me try and pin you down just a little bit. Us politicians, it happens to us all the time. Are you for the level of funding as recommended for MCSAP by the administration or the level of funding recommended in S. 631, or somewhere in between?

Dr. ROTHBERG. Well, you are putting a CRS employee on the spot by that question. Let me see if I can say it this way, where I somewhat agree with Gene McCormick of FHWA is that we are comparing apples to apples. Both bills would represent a major and sub-

stantial improvement in the flexibility of MCSAP in terms of authorized amounts.

I think your bill takes money off of the out-years and puts it into the program now, when there is definitely an established need. And those moneys, I believe the MCSAP community will use wisely and effectively.

Senator EXON. Thank you.

Mr. Henry, would you care to respond to that general line of questions?

Mr. HENRY. Indeed, starting with the previous witnesses, I was pleased regarding the testimony dealing with compatibility, that in fact FHWA recognizes that the States cannot have the same regulations intrastate as they do interstate.

Where our Alliance will disagree with the approach that FHWA is taking is we feel very strongly that the tolerance guidelines that Mr. Trentacoste alluded to need to be a product of the Federal Register. Literally, those intrastate tolerance guidelines impact upon tens of thousands of intrastate trucking companies and their employees. Assuredly, as the Federal regulations are a product of good public input, that decision dealing with how we are going to regulate the intrastate aspect of motor carrier safety needs to have the benefit of that same public input.

I agree wholeheartedly on behalf of the Alliance with what Dr. Rothberg has said regarding the incorporation of traffic enforcement. We polled our membership and fully 80 percent of the States in the United States that are involved in truck safety programs and party to CVSA agree that traffic enforcement has a very logical role in the motor carrier safety assistance program.

Training—we have heard Dr. Rothberg and others talk about adding programs to the MCSAP—weight enforcement, drug enforcement, traffic enforcement. And we feel that the 5-percent take-down, if you will, that is recommended by the administration is not high enough. It may be high enough to deal with the safety issues that we are confronted with today, but when we look beyond that and the dimension of your bill, we recommend to you, Mr. Chairman, that 1 percent is going to be much, much, much closer to a very, very definite and well-established need.

Inspection reciprocity is very, very close, and I have little doubt that your next panel will address the necessity for the States party to CVSA and party to MCSAP to recognize the work of one another. The framework is there. Currently it is a voluntary proposition within the Alliance.

Unfortunately, some States are not adhering to that voluntary reciprocity agreement. Each time we stop a truck unnecessarily loaded, the costs are somewhere in the area of \$50 or \$60 an hour, with no safety benefit.

Weight enforcement—again, if we add weight enforcement to the MCSAP, we would suggest to you, Mr. Chairman and the committee, that it would be inappropriate to reimburse States for weight enforcement work through the MCSAP if indeed that weight enforcement is being conducted on major thoroughfares, at ports of entry, and fixed-site truck weight facilities. That work is already being done.

We would suggest rather States be reimbursed for weight enforcement at locations where vehicles are prone to try to circumvent inspection locations and weighing locations.

Regarding the funding of the MCSAP, the Alliance would agree immediately with Dr. Rothberg's, part of Dr. Rothberg's observation on what your bill proposes. We need money on the front end now. The program has been static in terms of its ability to reimburse for the last 2 years.

At the same time, the costs associated with enforcing these kinds of laws, rules, and regulations has been going up dramatically.

If we move to the \$65 million figure and the \$70 million figure on the front end, we think it is very, very important, and again, particularly when we think in terms of adding additional dimensions to the program.

Senator EXON. How many States are represented in your Alliance, Mr. Henry?

Mr. HENRY. Forty-nine States belong to the Alliance now, Mr. Chairman.

Senator EXON. Well, I have no further questions.

I listened very carefully, Mr. Henry, to you with regard to the funding levels not taking consideration of the initiative of States before things happened, and I think that is very key and we are going to take a further look at that.

We get into this whole problem with intrastate and States' rights. I remember when I was Governor of Nebraska we had this proposition of every State, even on the interstate highway system, had different weights and lengths in some cases, and it caused a real, real problem.

Iowa, for example, were one of the tightest on both weights and lengths, and Nebraska was reasonably tight. I finally raised those limits to what it appeared to me to be the general average national standards. Then we had more trucks moving through Nebraska, which is a major bridge State in any event.

Then we had situations where truckers were going across Nebraska, then going south into Missouri, through Missouri, or north around Iowa. And it seems to me that the interstate highway system was all built basically to the same standards, and I do think we have to have some States' rights, but also we have to recognize that the flow of interstate commerce is critically important to the Nation as a whole and the States as individual States if they are going to be part of the whole, which they all want to be.

But I appreciated those remarks you said about recognizing early initiative by States and not treating them the same as far as percentage increase in the future for those who had no programs at all to begin with. That was a good point.

I have appreciated the testimony for both of you, and thank you, doctor, for the good work that your organization did on this study. With that, I thank you again and you are excused.

We will call the final panel for the day, panel No. 2: Ms. Lana Batts, Senior Vice President, Government Affairs, Association; Mr. Gene Bergoffen, Executive Vice President, National Private Truck Council; and Mr. J. Todd Spencer, the Treasurer of the Owner-Operators Independent Drivers Association, from here in Washington, DC.

Thank you very much for being here. Ms. Batts, we will begin with your testimony. As I had indicated earlier, all of your testimony has already been accepted into the record, the written testimony. If possible, we would like to have you abbreviate any remarks that you have in this regard at this time. So, we will start with you, Ms. Batts.

**STATEMENT OF LANA BATTS, SENIOR VICE PRESIDENT,
GOVERNMENT AFFAIRS, AMERICAN TRUCKING ASSOCIATIONS**

Ms. BATTS. Thank you very much, Mr. Chairman. It is always a pleasure to appear before you to discuss truck safety and the outstanding record that has compiled over the last 6 or 7 years.

As you know, ATA has been a strong supporter of the Motor Carrier Safety Assistance Program and every year ATA has urged that the program be expanded.

In response to a question that was asked earlier, is there has been an improvement in truck safety. There were 8 deaths per 100 million vehicle miles in 1976. Today it is less than 5 deaths.

And when the commercial driver's license is fully implemented, we believe the number will go down substantially. With the commercial driver's license, there will be a way to get the bad drivers off the road.

First and foremost, we are here to support reauthorization of the MCSAP program and increased funding for that program. As the earlier speakers have said, we think it is a tremendously successful program because it does what a program should do. That is, it is an effective partnership between the Federal Government and the State government.

Last year MCSAP conducted over 1.6 million inspections compared with a pre-MCSAP level of 35,000 inspections. It is a comprehensive program. It goes to intrastate as well as interstate. It looks at all drivers. It looks at all vehicles. It looks at all cargoes.

We are very excited by the fact that the new draft legislation recognizes that we need to do more for those vehicles between 10,000 and 26,000 pounds gross vehicle weight. The original legislation covered all vehicles over 10,000 pounds, but by and large the States have not been inspecting vehicles between 10,000 and 26,000 pounds.

But by including all vehicles over 10,000 pounds, the pool of vehicles that should be inspected grows from about 1.5 million vehicles to over 13 million vehicles. Any increase in MCSAP funding must be directed at an increased number of inspections in order to include the increased number of vehicles subject to MCSAP.

We are supportive of the proposed bill because it builds upon prior successes. It increases the number of vehicles that are covered, and it expands into logical areas to improve highway safety, such as drug and alcohol enforcement, size and weight enforcement, and commercial driver's license enforcement.

We are concerned, however, that with the increased number of vehicles and all of these new areas of concern that we may diminish the overall effectiveness of MCSAP. That is, MCSAP will not be doing the number of inspections that need to be done.

We are particularly concerned that, while there are safeguards so that the States do not merely substitute Federal dollars for their

State dollars—I am always amazed at the ingenuity of the States—there will be some leakage in those programs, particularly when there is a level which the States can drop down to and Federal funds will fill the gap.

Senator EXON. What you mean, Ms. Batts, is that former Governors would not do anything like that, but present-day Governors might.

Ms. BATTS. Yes, current Governors would.

Senator EXON. That is the only possible conclusion I could draw from that statement.

Ms. BATTS. That is correct. Thank you for bringing that to my attention.

What I would like to do is to turn my attention to what is not in the bill. First, the bill attempts to deal with the overweight container problem by calling for more weight enforcement outside the ports. This approach looks at the overweight container problem as merely a truck weight enforcement problem.

I wish it were so simple. Today's truckers that haul intermodal containers out of the ports have no idea when they leave the port what the container weighs. After leaving the port, if they find out that the container is overweight, they are not allowed to take it back.

If, on the other hand, they ask for the weight before they leave the port, they are considered a troublemaker, sent to the end of the line, and suffer the economic consequences.

Truckers are not the problem. Truckers are the victims. Truckers are paid on a per container basis. They get no economic benefit out of carrying an overweight container. Only the shipper has an economic reason for doing it.

Unfortunately, the proposed legislation does not deal with the overweight container problem in a comprehensive manner, and we look forward to working with you and this committee to deal with it in a much more expanded format. Overweight containers are not a truck weight enforcement problem. The problem expands far beyond that.

Your staff has been very receptive to some of our, and we think that we might be able to come up with the kind of program that will address the issue.

We were also asked to address the issue of interstate taxation and the uniformity issue as proposed in the administration's bill. As we testified before your committee 2½ years ago, we are in favor of mandatory enrollment in the IFTA and the IRP program. Mandatory membership in these programs could reduce the paper-work costs to the trucking industry of almost \$3 billion.

These agreements, as you well are aware, do not impact on how much the State can charge the trucker, but they do establish administrative procedures for collecting the tax. It is done through a base State agreement. The home State collects the tax and then disburses it out to the other States.

We are pleased that the Department of Transportation's bill has all the States joining a fuel tax and registration program. But then it proposes things which the industry did not ask for and which it cannot support. It requires additional base State reporting systems to handle taxes that are unique to trucking in addition to sales

taxes. It calls for a central Federal computer system to collect this information, which is totally unnecessary.

It would fund these programs out of MCSAP, although they do not have any relationship to safety. And it makes grants to the States to improve their computer facilities to handle the IFTA and the IRP program, which is good, but they want to do it out of MCSAP, which we do not support.

Only the last item is really worth of consideration; that is, upgrading the States' computer facilities. But we think it should be funded out of the general operating account of the Federal Highway Administration, not the MCSAP program.

Finally, we are such great supporters of the MCSAP program that we would like to share it, particularly with our friends the railroads. As you know, the States are very limited in what kinds of inspections they can do on the railroads and are basically unilaterally restricted from enforcing Federal rail safety regulations on safety and hazardous materials. That is the prerogative of the Federal Railroad Administration.

Unfortunately, according to the General Accounting Office, FRA is not doing a very good job. One of the reasons is that they have a very limited number of inspectors, which are asked to look at 580 railroads, 20,000 locomotives, 1.2 million freight cars, and one-quarter of a million miles of track.

The result is that the rail performance is bad and getting worse. In the last 3 years fatalities at railroad grade crossings alone have increased from 596 to over 800 fatalities. That is a 20-percent increase in 3 years.

The only way to reverse this trend is to allow the States, using trained inspectors, to inspect and enforce Federal rail safety and hazardous materials regulations. Such a system has improved motor carrier safety regulation. Unlike the railroads, which have taken States to court over inspections, motor carriers welcomed Federal, State, and, under your bill, even local inspection of motor carriers.

A similar system, which we affectionately call RAILSAP, will improve railroad safety and highway safety.

Thank you very much.

[The prepared statement of Ms. Batts follows:]

PREPARED STATEMENT OF MS. LANA R. BATTS

I am Lana R. Batts, Sr. Vice President of Government Affairs of the American Trucking Associations (ATA). I welcome the opportunity to address the reauthorization of the Motor Carrier Safety Assistance Program, and provide comments on the staff working draft.

These comments are submitted on behalf of ATA, the national trade association of the trucking industry and its 4,000 members. Through its 51 affiliated trucking associations located in every State and the District of Columbia, 10 affiliated conferences, and their 30,000 motor carrier members, ATA represents every type and class of motor carrier in the country: for-hire and private; regulated and exempt.

The trucking industry is composed of approximately 213,000 American firms, and accounts for 78 percent of all freight transportation revenues in this country. The trucking industry employs 7 million Americans and generates annual revenues in excess of \$257 billion.

The public and the American economy depends heavily on truck transportation to provide the goods, services, and materials that move America. Everyone in the trucking industry is working to run safe operations.

There are over 45,000 for-hire motor carriers of property with Interstate Commerce Commission operating authority, less than 2,000 of which earn over \$1 mil-

lion in revenues annually. Owner-operators and private motor carriers comprise another 167,000 businesses. Most carriers are small, 89 percent of the motor carriers in this country operate less than six vehicles and do not consider themselves as part of the trucking industry. Their primary business is that of manufacturing, construction, or of providing a service. The operation of trucks is only a small part of their business.

This diversity makes it difficult to keep the industry informed about safety laws and regulations and about the knowledge, skills, and attitude that are so important to truck safety. To overcome these difficulties, there must be strong Federal leadership and continuing programs by industry and government to:

- Improve compliance with regulations;
- Shape the skill, knowledge, and attitudes of drivers; and
- Assure that vehicles are built and maintained for maximum safety.

This is a task that cannot be accomplished solely by the Federal government; there must be a partnership of Federal, State, and industry working together toward the common goal of safe commercial vehicle operations, regardless of whether the employer has one truck or a thousand.

ATA has initiated numerous programs for the trucking industry to help attain these objectives, including:

- Training programs for drivers, supervisors, and driving schools;
- Management programs to assure safe vehicles, safe drivers, and safe operations;
- Research to reduce accident experience; and,
- Cooperative programs to improve vehicle performance, especially in the area of truck brakes.

We have also been strong and early advocates for the:

- Establishment of the Motor Carrier Safety Assistance Program, including roadside inspection for driver, vehicle and load;
- Creation of a Commercial Drivers License;
- Elimination of the Commercial Zone Safety Exemption;
- Adoption of electronic recordkeeping for hours of service;
- Implementation of brake improvement research;
- Requirements for drug and alcohol testing;
- Shutting down motor carriers who pose an imminent hazard to highway safety;
- Eliminating drugs at truck stops; and
- Banning radar detectors from commercial vehicles.

Of all of these, we believe that the Motor Carrier Safety Assistance Program (MCSAP) has done more to improve truck and bus safety than any of the other programs. The MCSAP activities have brought home to thousands of vehicle drivers, their employers, and shippers that there is an active safety program in this country, and we take safety seriously.

ATA has been a leader in supporting the development and subsequent funding of the Motor Carrier Safety Assistance Program. Since its inception in 1982, ATA has been a strong advocate of this safety program, which provides assistance to State motor carrier enforcement agencies that adopt regulations compatible with the Federal Motor Carrier Safety Regulations and then trains personnel to enforce those regulations.

We have sought increases in funding levels for this safety program and are participating in organizations such as the Commercial Vehicle Safety Alliance which is striving to ensure that uniform enforcement is carried out in all of the States. The motor carrier industry is very active through committee representation and programs to ensure proper motor carrier participation.

ROADSIDE INSPECTIONS AND DRUG TESTING

In the March 8 staff working draft of the bill, we were pleased to see the reference to an increased awareness and enforcement of drug and alcohol use by drivers. As you are aware, we are strong advocates of testing drivers for the use of controlled substances. We think DOT should be directed to extend drug testing of commercial vehicle drivers to drivers in intrastate commerce, a move DOT has resisted so far. Our goal is the same as yours and that of the DOT—a drug free transportation system. In the surface transportation area, the logistical problems of testing are enormous. Of the 3.8 million persons subject to the DOT drug testing programs, over three-fourths of these are commercial motor vehicle drivers.

As I mentioned earlier, the vast majority of the operators of commercial vehicles are small businesses, and many do not even consider themselves as motor carriers. With only one or two drivers, the opportunity to subvert the drug testing becomes easier, and the chances that the driver using drugs will be able to continue to drive

increases. As more roadside inspectors are trained to identify drivers who are under the influence or using drugs, it becomes a natural extension from identification of drug use to drug testing. We believe that random drug testing is the best deterrent to drug use, as the individual driver never knows when he or she will be called for a test. The case pending in the United States Ninth Circuit Court of Appeals will eventually answer the question of the constitutionality of Federally mandated random and post accident testing.

Taking a urine specimen could become a continuation of a mini-physical to determine that the driver is physically fit to operate the vehicle. While the Federal Government is preliminarily enjoined from requiring motor carriers to randomly test drivers, once the court rules, roadside drug testing could be conducted as part of the examination of the driver's physical qualification requirements. As roadside inspections are being more focused on the driver, the driver's physical qualifications cannot be ignored. Several of the DOT's physical qualifications standards are objective in nature and could be emphasized during a roadside inspection. These could include items, such as, monocular drivers, loss of limbs, and deaf drivers. We believe that roadside drug testing would place all drivers at equal risk of being selected for such drug testing, this would be a strong deterrent to drug use. We urge this Committee to include roadside random drug testing as part of its roadside inspection procedure.

INSPECTION OF ALL VEHICLES

ATA has consistently supported the concept that the regulations should apply to all vehicles with a weight rating over 10,000 pounds. All of the safety regulations, with the exception of the Commercial Driver's License and drug testing, apply to vehicles above 10,000 pounds. In our oversight testimony in April 1989 on Truck Safety, we fully supported the concept that MCSAP funds should be used to cover the inspection of all vehicles including those that where operated in the former exempt zones. We continue to believe that the inspections should cover all vehicles regardless of where they operate, and that applicability should begin at 10,001 pounds. Currently, the main focus of roadside inspections are on the tractor-trailer units. 1.6 million vehicles are combination units. However, there are 13.3 million commercial vehicles, the vast majority of which are straight trucks. As well as inspecting the tractor-trailers, emphasis is needed on the compliance of straight trucks too. Medium size trucks are also involved in crashes as well as tractor-trailer combinations and should be subject to the same roadside inspections. We support the provision in the draft that sets the definition of a Commercial Motor Vehicle at gross vehicle weight rating of 10,001 pounds.

QUALIFIED INSPECTORS

The proper inspection of a commercial motor vehicle and the determination that the driver is in compliance with the driver qualification and hours of service regulations cannot be done by neophytes.

Inspectors must be properly trained to inspect a commercial vehicle. Inspectors must be knowledgeable with the regulations and interpretations regarding driver qualifications and hours of service. We have recently seen this axiom put in place by the Federal Highway Administration in the 'issuing of final rules establishing qualifications for individuals who perform annual vehicle inspections and perform brake inspections and maintenance.

With just-in-time delivery demands being made on truckers, and the average cost of \$60 an hour for a loaded vehicle being placed out-of-service, plus the costs of roadside repairs, it is imperative that each vehicle that is inspected is done by a fully trained inspector. We have seen great progress made over the past years by the Commercial Vehicle Safety Alliance to ensure that the inspectors are trained and proficient in their specialty. We are fearful that more and more local enforcement personnel, such as city and county police, are getting involved in performing vehicle and driver inspection activities without proper training. While we do not object to local inspections, our concern is the lack of training and the desire of some localities to make vehicle inspections a revenue producer as opposed to an enhancement of highway safety. Roadside inspections of the 1990's cannot be a replacement for the speed traps of the 1950's and 60's. We believe that traffic enforcement can play a role in accident reduction, and traffic enforcement and MCSAP activities can go hand-in-hand. ATA wants to ensure that stops for traffic enforcement are performed safely, and if associated inspections are performed, they are performed by officers that are trained to perform all levels of CVSA inspections.

We maintain that allowing traffic enforcement to be a MCSAP expense will help to get commercial drivers and vehicles that are unsafe off the road and would be

consistent with the objectives and disqualification provisions of the Commercial Motor Vehicle Safety Act of 1986, which established the Commercial Driver's License program. The stopping officer must be able to detect defective equipment as well as a possible deficiency in the driver's paperwork. To do otherwise, could allow an unsafe vehicle to proceed after it had been stopped.

ATA urges that any person who inspects a commercial vehicle should meet the training standards that have been established by the Commercial Vehicle Safety Alliance and FHWA for the MCSAP.

SIZE AND WEIGHT

The funding for MCSAP should be channeled, as it is now, toward enforcement of those regulations and rules that directly affect the compliance of motor carriers, vehicles and drivers with motorcarrier safety regulations. There are many other related safety activities where MCSAP funds could be used, such as traffic safety enforcement, size and weight activities, and other safety or fringe activities. With thousands of un-rated motor carriers and vehicles being placed out-of-service for unsafe operations, it becomes a matter of priorities where MCSAP dollars are spent.

We could quickly see an erosion of the basic safety activities that are the cornerstone of the program, if other activities are funded by the MCSAP without a direct tie-in to safety of operations. Some have indicated they want size and weight activities so long as it does not reduce the level of other safety activities of MCSAP. This would result in a status quo inspection program. We believe the number of inspections should increase. Size and weight enforcement should be done only after it can be shown that the number of inspections have increased to cover the increased number of vehicles.

We support the concept that if weighing activities are going to be done, they be performed in connection with a safety inspection and not at a fixed scale location. Such a limited application will insure that, (1) carriers seeking to avoid permanent weigh scales will be caught, and (2) Federal dollars do not replace State funds in size and weight enforcement.

OVERWEIGHT CONTAINERS

The rapid growth of domestic and international containerization of freight in recent years has resulted in increasing numbers of maritime and rail shipping containers being transported over our highways. As a result, the trucking industry finds itself an integral part of intermodal transportation.

In a recent study by the Federal Highway Administration, one-third of all inbound and outbound containers are carrying cargoes at weights that could cause the transporting vehicle to violate Federal vehicle weight laws. This data translates into over 3 million overweight containers a year. These overweight containers have the potential to cause damage to highway pavements and bridges and to impair vehicle performance resulting in safety problems.

But overweight containers are not caused by lack of enforcement. Since the motor carrier often has no way of knowing the weight of the container until it is weighed at a check point, weighing trucks outside the port does not offer a workable resolution to the overweight container problem. The shipper who overloads the container receives no penalty. In fact, the shipper and the receiver of the container continue to enjoy the benefits of their actions while the trucking company suffers the expense. The motor carrier industry has born the economic, legal, and safety burdens far too long.

While weighing trucks at sea ports may catch overweight vehicles, it does not address the core issue. Federal legislation and regulations are needed to:

- require weight verification of containers and appropriate penalties for anyone submitting false weight verifications,
- make shippers responsible for overweight containers;
- require State uniformity for issuance of overweight container permits;
- require ports to confirm declared weights before the import container leaves the port; and
- require owners of intermodal equipment to maintain equipment in compliance with safety requirements.

While we do not oppose weighing more trucks and issuing more citations at ports, it will not solve the overweight container problem. If there is a MCSAP emphasis of weighing trucks transporting intermodal containers, the program must be targeted at reaching the shipper, not the carrier. We will be glad to work with the Committee to establish regulations which will more directly solve the overweight container problem.

SAFETY AUDITS

We believe that there is a greater role available for the Motor Carrier Safety Assistance Program concerning audits at motor carriers' places of business to determine safety compliance. The Federal Highway Administration has audited and rated approximately 85,000 interstate motor carriers. This leaves well over 100,000 interstate motor carriers to be rated, with nothing being said about the tens of thousands of intrastate carriers, and the turnover rate of about 20,000 carriers per year. Last year States through the MCSAP conducted over 8,900 carrier reviews. Currently, 28 States assist FHWA in conducting safety reviews. As of March 31, 1990, State personnel has conducted about 12,000 safety reviews, or about 20 percent of those completed since October 1986. We believe that with additional funding, all States should be encouraged to expand these reviews. Again, we believe that these reviews should only be conducted by highly trained inspectors who have received the necessary training to conduct these types of reviews. A percentage of each State's activities could certainly be devoted to safety management audits.

CDL ENFORCEMENT

The Commercial Driver's License program is rapidly coming to fruition. The success of the licensing hinges very much on the enforcement of the one license concept and disqualification provisions of the law. We fully realize that every time a truck is stopped for a traffic offense a check cannot be made to determine driver compliance. However, with well over a million inspections being made under the MCSAP, where can there be better enforcement of the CDL than during a roadside inspection with trained officers who are aware of the various endorsements needed and other nuances of the program? We are supportive of the proposed plan to use MCSAP funds to promote enforcement of the CDL program.

We are concerned that DOT missed the biometric identifier rulemaking date. However, we believe full attention should be spent on getting every State on the CDL Information System at this time. When all States are on the system, Congress should again direct DOT to implement a fool-proof identification system for drivers.

PUBLIC EDUCATION

We are pleased to see the proposed effort for education of the motoring public on how to share the road with a commercial motor vehicle. However, we recommend that this program not be restricted to only the States, but expanded to allow non-profit groups to participate in the funding and the effort.

INCREASED FUNDING

As I mentioned before, ATA has been and will continue to be a strong proponent of the MCSAP. In fact, we support increased funding of the program in this year's budget.

The March 8 staff working draft, provides for additional activities to be included in the State's MCSAP plan. With the very modest levels of funding proposed, we are concerned that the States will not be able to:

- Maintain their current level of effort on vehicles over 26,000 pounds and the increased number of inspections of vehicles between 10,000 and 26,000 pounds,
- Enforce size and weight limits.
- Enforce commercial vehicle traffic laws,
- Enforce alcohol and drug use,
- Conduct drug interdiction,
- Fund information systems, and
- Conduct CDL inspections.

MCSAP is a proven commodity. Before adding other worthwhile projects, we must provide funding so it carries out its primary function: roadside inspections.

PENALTIES

The staff working draft requires a report from FHWA on the effectiveness and acceptance of the uniform penalty recommendations of the Commercial Vehicle Safety Alliance and recommendations on the need for regulations requiring uniformity in fines. Uniformity in penalties is an area that we have supported for a long period of time, and it is as important as uniformity of regulations. However, the report should be expanded to include where the moneys from fines are allocated. Fines collected from violations of safety regulations should be earmarked for highway purposes and not to general funds or other non-related activities. It is recommended that the report be prepared with input from the motor carrier industry and should be expanded to consider the issue of State use of safety fines.

COMPATIBILITY

Section 402 of the 1982 Act provided that the States are authorized to receive funds for the enforcement of Federal rules applicable to commercial motor vehicle safety and compatible State rules. By the terms of the Statute, the States are required to submit plans to the Department of Transportation where the States agree to adopt and assume responsibility for enforcing Federal or compatible State rules applicable to commercial motor vehicle safety. In the Act, a commercial motor vehicle is defined as a vehicle used on the highways to transport commerce, and is not limited to interstate traffic.

Clarification is needed in the legislation as to the applicability of the State laws or regulations for the States to be funded under the program. Of course, the States cannot directly enforce Federal regulations, so the States adopt the Federal rules into the State codes and regulations and then enforce these State safety requirements. In some of the States these commercial motor vehicle safety regulations are applicable to all vehicles traveling on the State's highways, notwithstanding the type of commerce, that is, interstate or intrastate freight, that is being transported in the vehicle. If the vehicle is transporting interstate commerce or intrastate commerce the driver and the vehicle are subject to the identical set of safety regulations. However, some States, have adopted the Federal regulations into the State enforcement program with the applicability of these regulations being the same as the Federal rules, namely applying these rules to vehicles and drivers transporting interstate loads only, with the State applying different rules for vehicles transporting intrastate commerce. It is our established policy that the Federal Motor Carrier Safety Regulations should be applicable to all commercial motor vehicles, including vehicles and drivers operating in intrastate commerce and enforced through the Motor Carrier Safety Assistance Program.

We are pleased to see that regarding inconsistencies between Federal and State safety regulations involving the transportation of interstate commerce, the Federal Highway Administration issued a rulemaking action on February 22 of this year. The proposed rules are the result of the recommendations of the Commercial Motor Vehicle Regulatory Review Panel, which was established pursuant to the Motor Carrier Safety Act of 1984. These proposed rules establish procedures for States to continuously review, analyze, and certify compatibility of State safety regulations with Federal regulations. States who continue to have inconsistent rules face the denial of MCSAP funding and/or preemption of the State rules. Along this line, ATA fully supports the Intrastate Compatibility section in the working draft.

DISTRIBUTION OF CONTROLLED SUBSTANCES

Drug use impinges on all aspects of American life. It threatens the home, the schools the community, and certainly the workplace.

The motor carrier industry is fully supportive of the proposed "Drug Free Truck Stop Act". We are all aware of the problems of drug use in this country, and any action that can be taken to make it more difficult for drivers of commercial motor vehicles to obtain drugs is laudable.

RAILSAP

As I have mentioned, we are in full support of the MCSAP. In fact, every person you talk to feels that it is a very successful joint industry-government safety program conducted at both the Federal and State level. But there is another concern that begs for a program just like MCSAP. And that is the problem of rail safety.

According to the General Accounting Office, the Federal Railroad Administration's safety inspection program does not provide assurance that the nation's railroads are operating safely. Part of this is because of the overwhelming size of FRA's task—249 FRA inspectors were responsible for inspecting the nation's 580 railroads, which operated approximately 20,000 locomotives, 1.2 million freight cars and 258,000 miles of track.

In 1989, it is estimated that this industry was involved in hundreds of accidents that resulted in 43 deaths and over 22,000 employee injuries. This figure does not include accidents which occurred at rail crossings which resulted in over 800 deaths. In addition, property damage was over \$191,000,000. The Federal Railroad Administration during 1989 conducted about 63,300 inspections and found over 378,000 safety problems, but was unable to follow-up on these inspection activities with an effective program.

The solution to this problem is to allow the inspection and enforcement resources at the State level. There are two impediments to this.

- FRA does not currently provide any funding for State inspections; and

• FRA's current mechanism restricts the effectiveness of State inspectors because they can make investigations, but cannot automatically pursue enforcement actions.

Motor carriers have found that properly trained State personnel can indeed enforce Federal safety rules effectively and in a most expeditious manner. We believe that this is one of the factors that have contributed to the success of the MCSAP.

A Railroad Safety Assistance Program, for the nation's rail carriers, modeled after the Motor Carrier Safety Assistance Program for motor carriers would help ensure a safer transportation system. We urge you to consider adoption of such a program.

TAX UNIFORMITY

We are concerned over the apparent drift of direction by the Administration in its proposed Surface Transportation Assistance Act of 1991 towards funding activities which in the past have not been a part of the MCSAP effort. In particular, we are concerned by the proposal to use MCSAP funds to develop and implement a program to collect motor fuel and registration taxes and to establish information system pertaining to the collection of fees for registering motor vehicles and taxes charged by States for motor fuel consumption, but it should not include information on sales taxes and other State taxes.

As we testified before this committee on September 16, 1988, we support mandatory State participation in the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA). The paperwork burden caused by non-uniformity in registration fees and fuel taxes is causing the trucking industry as much as \$ 3 billion a year. IRP and IFTA are base-State agreements in which a carrier's home State collects the taxes for all States, audits the return, and redistributes the revenue based on the carrier's operations. These systems are already in place. Neither of these systems require a nationwide data base.

We do not believe that it is necessary for the Federal government to involve itself in the administration of information pertaining to the collection of, and accounting of fees for registering commercial motor vehicles and taxes charged by States for motor fuel used by commercial motor vehicles. Any grants to States to strengthen State computer systems to implement the IRP or IFTA should be funded from other than MCSAP funds, i.e., Office of Motor Carriers', general operating funds.

The information system proposed by DOT might properly be a program to undertake to demonstrate methods of linking the safety fitness of a motor carrier when registering a commercial motor vehicle. This appears to be worth pursuing. The project should not be initiated until Congress has the opportunity to review the proposed DOT study. If DOT finds such a system is feasible and cost effective it should not be funded through the MCSAP, but through another Federal Highway Administration account, such as the Safety Net program.

The amount of funding would total \$34 million over a five year period. We support the use of MCSAP funds on ongoing motor carrier safety initiatives, especially inspecting the 13.3 million straight trucks which historically have not been inspected. We are opposed to the use of MCSAP funds for State tax uniformity.

BINGO CARDS

ATA supports the Administration's proposal to repeal the "bingo card" program. The bingo card is a Federal program through which States enforce Interstate Commerce Commission operating rights. The program was developed to prevent motor carriers which did not hold ICC authority from hauling freight. The need for the program ended in 1980 when Congress passed the Motor Carrier Act which deregulated the trucking industry and opened the market for thousands of new carriers.

The current program is a paperwork nightmare which adds close to half a billion dollars annually to consumer transportation costs.

There are 12 State public service commissions that belong to the Commercial Vehicle Safety Alliance and hence have substantial responsibility for truck safety enforcement. To the extent that some of their motor carrier safety funding may come through the sale of bingo stamps, ATA believes these States may turn to fuel taxes and registration fees to support their safety programs. Under the bingo card program only ICC regulated motor carriers pay, while under a fuel tax and registration fee system all carriers make a contribution to paying for truck safety.

GENERAL BUSINESS TAXES

Most carriers' problems with State and local general business taxes are relatively new, but are serious and growing fast. Interstate motor carriers doing business in a State may be asked to pay a fair share of the State's general business taxes, provided the carrier has a taxable connection with the State. However, many States now require carriers the merely travel on their roads to pay these taxes, in addition

to highway taxes. ATA believes that interstate motor carriers should not be subject to income or gross receipt taxes in any State in which they do not have real property or permanent employees, or to any local taxes in a locality in which they do not maintain both real property and permanent employees.

Thank you Mr. Chairman, ATA appreciates the opportunity to comment, and I will be pleased to respond to any questions.

Senator EXON. Thank you, Ms. Batts.
Mr. Bergoffen.

**STATEMENT OF GENE BERGOFFEN, EXECUTIVE VICE
PRESIDENT, NATIONAL PRIVATE TRUCK COUNCIL**

Mr. BERGOFFEN. Thank you, Mr. Chairman. It is good to be back again and to be part of—

Senator EXON. We are glad to have you.

Mr. BERGOFFEN [continuing]. Part of a panel of a good cross-section of the trucking community.

I am Gene Bergoffen, executive vice president of the National Private Truck Council. NPTC is the national organization exclusively dedicated to the companies who operate truck fleets that feed, fuel, and provide very valuable services and products to America.

Safety is the priority concern of our membership. it is good business. A safe operation is a productive operation. Goods will be delivered and services offered only if they are done in a safe and healthy way.

Overall, we believe that both the MCSAP program and the new initiatives proposed in S. 631 and the administration's bill will definitely support and improve truck safety. You have asked our thoughts on ways to improve effectiveness and efficiency of MCSAP and, while NPTC member companies fully support the MCSAP program, there is one common thread of concern, as Paul Henry anticipated a little earlier, and that concern is uniformity.

There is still far too much discrepancy and lack of uniformity from State to State on reciprocity of inspections, criteria, infractions, and fines. While CVSA has been making a very good effort to resolve these problems, the distance remaining is great.

Redundant and inconsistent activities must be sought out, identified, and eliminated. This will yield a more effective program and more acceptance. The more uniform across the country, the more accepted it will be.

Inconsistency and equality in approach to enforcement is another common concern. Some State officials are a little dogmatic sometimes and take a very heavyhanded approach, but others actively seek cooperation, offer assistance, and look for ways to help carriers. The latter approach is clearly better.

You also asked that we comment on ways inspections could be better targeted and focused on accident causation, and there has been a lot of discussion about that. As an essential first step, we strongly support implementation of the findings of the TRB Special Report 228. These findings highlight the need for a national truck safety monitoring system and recommend a number of actions to improve Federal agency coordination and to develop a data-gathering and analysis system.

I think, given some of the discussions we have had today about accidents, accident rates, particular causes and how to get at those

causes, and about conclusions that we all like to draw, I think the truth is there is very little accurate, consistent, series-type information out there on accidents and truck safety.

On your second question, the appropriate mix of funding levels, let me just say that we strongly support increased funding of the MCSAP program. The administration's bill and your bill would move MCSAP along aggressively.

We strongly support the uniformity provisions of the administration's proposal relating to the international registration plan, the international fuel tax agreement, and—and I will make things a bit interesting—we have a little bit different view than does the American Trucking Associations on the use of MCSAP funds for the development and initiation of the information systems needed to support these plans.

We may question the scope and degree of direct Federal and State grant funding in the administration's bill. There is a lot of money provided there for grants to the States. There appears to be a conclusion drawn already that even before an initial study there will be need for spending that much more money. But generally we do see the link between the information system and safety.

We think there is a need for an accurate data base to link inspections and registrations. Perhaps that can be limited to registrations and not taxes, and certainly we agree with ATA on not spreading it to the use and other user taxes. But we think there is a way to work this out with the total community and perhaps ATA, NPTC, the owner-operators and the administration can work this through.

Your committee has not addressed the IRP, IFTA, and "bingo stamps" provisions included in the proposed Surface Transportation Assistance Act. These provisions are among our highest priorities and we offer to work with you to seek your support for these elements as essential parts of the final bill.

Finally, because motor fleet safety is so important, we are delighted to tell you about a new program, announced just a week ago, which will foster awareness of trucks among other highway users and help all to share the roads and make travel safer. This new program is called the Truck Awareness and Safety Program, and the press release announcing it is attached to our statement.

One more point, and this is in our prepared statement. The bill would continue the definition, as Lana pointed out, of commercial motor vehicles at a 10,001-pound-and-above gross vehicle weight. There is pending before the Federal Highway Administration a rulemaking which would seek to exempt some medium and light duty trucks and operations from the MCSAP program.

This is a very contentious issue and we just want to note, as we did in our prepared testimony, that there may be a way to deal with real concerns of medium and light duty operators, many of whom are bakeries and service industries and Davey Tree Service and the other tree service and garden services and so on, who operate very safely but who may unnecessarily be burdened by some MCSAP requirements. And we just do not want to see that swept under the rug and ignored.

Mr. Chairman, in sum we support the basic objectives of your committee's bill. We have made some recommendations for change and particularly believe provisions relating to uniformity are essen-

tial. But overall we are pleased to support your effort and offer to work with you to ensure early reauthorization of the Motor Carrier Safety Assistance Program.

[The prepared statement of Mr. Bergoffen follows:]

PREPARED STATEMENT OF MR. GENE S. BERGOFFEN

I am Gene Bergoffen, Executive Vice President of the National Private Truck Council (NPTC), the national organization exclusively dedicated to those companies who operate the truck fleets that feed, fuel and provide valuable products and services to America.

Private fleets represent a significant, and perhaps the largest segment of the total universe of truck operators. Collectively, they have been estimated to operate as much as two-thirds of the 1.2 million trucks in this country over 26,000 lb. gross vehicle weight.

NPTC fully represents this extremely important group of motor fleet operators. we represent large fleets operated by Fortune 500 companies and the small fleets of local businesses. Our members operate virtually every type of equipment, from tractor-trailer combinations using tank trailers or 48 or 53 foot long trailers, to straight trucks used in local delivery operations by bakeries and dairies.

NPTC'S COMMITMENT TO SAFETY

Safety is the priority concern of our membership. Safety is good business. A safe operation is a productive operation. Goods will be delivered, and services offered, only if these are done in a safe and healthy way. Educational and other activities to further safe operations of trucks are a focus of our organization's energies, in the interest of both our members and the travelling public.

Because motor fleet safety is so important, we are delighted to tell you about a new program, announced just a week ago, which will foster awareness of trucks among other highway users and help all to share the roads and make travel safer—along our nation's roads and highways.

The new Truck Awareness And Safety Program is an effort jointly sponsored by NPTC through its new affiliate, the Private Fleet Management Institute, and an organization known as the Professional Drivers of America, Inc. (PDA). The program will teach awareness of truck characteristics, safe driving habits and the role of trucking in the economy. It works with school systems, community groups, and others. It takes a hands-on approach to learning; students and others hear from the truck driver who works in their neighborhood and physically experience the truck itself.

The program is built on the efforts of Linda Householder, a former truck driver who formed PDA in Utah. Under her direction, it has been used for six years in eighteen states. We're convinced that through the efforts of PDA, and PFMI, and NPTC's 1,300 members nationwide, the Truck Awareness And Safety Program will have a major positive effect on truck and highway safety. A copy of the press release announcing this program is attached.

This new program is just part of NPTC's total safety efforts. Other activities include:

(a) NPTC's Safety Committee, including a network of over 125 fleet safety managers. The Committee has recently been restructured and has begun several significant programs such as a safety "knowledge network," safety awards and recognition programs, and development of a basic "how-to" safety manager's handbook.

(b) Increased emphasis and NPTC involvement in the Commercial Vehicle Safety Alliance (CVSA).

(c) Offering of essential safety management knowledge as part of the certification curricula of our Continuing Education Program, capped by the Certified Private Fleet Manager designation.

VIEWS ON MOTOR CARRIER ASSISTANCE PROGRAM (MCSAP)

The first part of this statement will answer those guest ions Senators Hollings and Exon asked in the March 5 letter inviting our testimony. Following this, we will address your Subcommittee's draft legislation, comparing it with those provisions of the Administration's proposed Surface Transportation Assistance Act of 1991 which relate to motor carrier safety.

In considering and evaluating the questions you posed, and the draft legislation, we have used two basic criteria to evaluate the MCSAP program. These are:

1. Will the program or provision directly lead to safer operations?

2. Will the program and provisions be manageable and productive; that is, will they create more direct benefit than administrative burden?

Overall, we believe that both the MCSAP program and the new initiatives proposed in pending legislation will definitely support and improve truck safety. We will make some suggestions on how the program and legislative proposals can be made even more effective, and less burdensome.

Question 1: Ways to Improve Effectiveness and Efficiency of MCSAP

The Motor Carrier Safety Assistance Program has become the centerpiece for federal-state cooperation in truck safety enforcement. MCSAP has caused states to re-evaluate, and in many cases, significantly improve, their policies and practices affecting motor carrier safety. MCSAP has dramatically increased inspections by state safety officials, increased compliance with safety requirements, promoted uniformity of federal and state legislation, and enhanced industry's awareness of the importance of safety.

While NPTC member companies, known in the highway community for their strong commitment to highway safety, support the MCSAP program, there is one common thread of concern among them all.

This concern is uniformity. There is still far too much discrepancy, and lack of uniformity from state to state, on reciprocity of inspections, inspection criteria, infractions, and fines. While the Commercial Vehicle Safety Alliance, the national association of state truck enforcement officials, has been making a responsible effort to resolve these problems, the distance remaining is great. Redundant and inconsistent activities must be sought out, identified, and eliminated. This will yield a more effective program, and a greater level of awareness and acceptance throughout the entire trucking community.

Inconsistency in the quality and approach to enforcement is another common concern. Specifically, some state officials take a dogmatic heavy handed regulatory approach, while others actively seek cooperation and offer assistance. The latter approach is clearly better. Through the work of the Commercial Vehicle Safety Alliance, and through increased emphasis on training, we are certain the more cooperative enforcement approach can be extended throughout all states.

You also asked that we comment on ways inspections could be better targeted and focused on accident causation. As an essential first step, we must have a relevant, and targeted data base that allows for meaningful and consistent comparisons, year to year, and that yields measurements of events and circumstances that can be used to track the causes of accidents and the progress in correcting them. To that end, we strongly support the findings of the Transportation Research Board in its Special Report 228 on Data Requirements for Monitoring Truck Safety. These findings highlight the need for a National Truck Safety Monitoring System and recommend a number of actions to improve Federal agency coordination and to develop a data gathering and analysis system. We urge the Department of Transportation, through the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA), to implement these recommendations as quickly as possible.

Question 2: Appropriate MSCAP Funding Levels

NPTC strongly supports increased funding for the MCSAP program. We believe the levels in the Administration's proposed Surface Transportation Assistance Act will move the program along aggressively.

Question 3: Compatibility of Interstate and Intrastate Motor Carrier Safety Regulations

As indicated in my response to Question One above, the current patchwork of inconsistent regulations across the states is a major barrier to productivity and efficiency in motor operations. Much progress has been made in the effort to make state and federal regulations compatible, and consistently enforced. We strongly support efforts of the Federal Highway Administration to bring about compatibility as soon as possible.

Targeted Weight Enforcement Efforts

We believe the current MSCAP program authority provides sufficient flexibility and funding to accomplish targeted efforts if and when they are needed and appropriate.

PROPOSED "MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAUTHORIZATION ACT OF 1991"

We have had an opportunity to review your Committee's working draft of a proposed Motor Carrier Safety Assistance Program Reauthorization Act of 1991. We have also reviewed the provisions relating to the Motor Carrier Safety Assistance Program in the Administration's proposed Surface Transportation Assistance Act of 1991.

We support most of the provisions in both versions of MCSAP reauthorization. We generally favor the Administration's approach, however, which in a number of instances is less detailed, and provides adequate and basic authority, with more flexibility for dealing with individual state situations.

Following are our comments on those individual elements of the legislation which concern us most, with appropriate comparisons between the Committee's draft bill and the Administration's version.

Submission of State Plans

The Committee draft generally tracks the provisions of the Administration's bill, but adds sections that would specifically require states to conduct activities in the area of controlled substances, driver licensing requirements, enforcement of state and local traffic safety laws and regulations, hazardous materials transportation, and provide penalties relating to drivers convicted for violations of out of service orders. While we have no basic objection to the thrust of these provisions, we believe current authority is broad enough to allow the same activities without restricting state discretion in these areas.

Drug Free Truck Stops

NPTC strongly supports Section 9 of the Committee's draft relating to drug free truck stops. We are hopeful that such a provision will continue to discourage drug dealing at these facilities, helping to keep drugs away from truck drivers. In this connection, we applaud the work of the National Association of Truck Stop Operators (NATSO) and its members. NATSO has instituted an aggressive campaign—entitled Operation Roadblock, to eliminate drugs at facilities which provide fuel and other services for trucks.

Improved Brake Systems for Commercial Motor Vehicles

Section 10 of the Committee draft would require initiation of rulemaking proceedings relating to brakes. It also requires these proceedings to be completed within specified time frames. We presume DOT will fulfill its statutory duty through timely issuance of a decision which would not change present regulations. Assuming that these provisions do not mandate any change in present rules, we have no objection to them.

Funding of Commercial Vehicle Information System

The Administration's proposal includes provisions relating to review of information systems utilized by one or more states pertaining to collection of fees and taxes for vehicle registration, motor fuel use and related purposes. Following the review of information systems, the Secretary would be authorized, in cooperation with the states, to establish an information system to serve as a clearinghouse for the states. This new information system is coupled with requirements in the Administration's proposal that would effectively require states to participate in base state registration and tax agreements, similar to the current International Registration Plan (IRP), and the International Fuel Tax Agreement (IFTA). Funds authorized for the Motor Carrier Safety Assistance Program would be available to support this review of information systems and the implementation of systems by the states.

NPTC strongly supports the uniformity provisions of the Administration's proposal relating to the International Registration Plan, and the International Fuel Tax Agreement. Further, we have no objection to the use of MCSAP funds for the development and initiation of the information systems needed to support these plans.

We see this funding approach as strengthening MSCAP and not as diluting MCSAP objectives. We believe there is a direct link between effective administration of the MCSAP program and a reliable, and frequently updated database of motor fleet operators. Although many states have adequate records of carriers who operate within their states, there is no one reliable source of information on interstate operators, and on all intrastate operators. The Safety Audit and Roadside Inspection Programs of MCSAP could logically be related to base state registration information. This will insure a reliable source of information for planning inspections, and for inclusion of critical information in the "Safety Net" system, which currently inventories those fleets with documented safety problems.

While we may question the scope and degree of direct federal and state grant funding anticipated for system reviews and implementation, the basic approach in the Administration's proposed Commercial Vehicle Information System is sound, and the system will clearly facilitate the entire MCSAP effort.

Your Committee has not addressed the IRP, IFTA, and "bingo stamps" provisions included in the proposed Surface Transportation Assistance Act. These provisions are among NPTC's highest priorities for inclusion in federal highway reauthorization, and we offer to work with you to seek the Committee's support for these elements as essential parts of the Surface Transportation Assistance Act.

Definition of Commercial Motor Vehicle

Both the Committee's draft and the Administration's proposal continue current definitions of commercial motor vehicles. Under this definition, a commercial motor vehicle includes all vehicles with a gross vehicle weight rating of 10,001 lbs. or more.

In late 1989, the Federal Highway Administration (FHWA) issued an advance notice of proposed rulemaking, asking whether the 10,001 lb. gross vehicle weight rating used to define commercial motor vehicles should be changed for MCSAP purposes. Many believe it should, including some members of NPTC. FHWA received a number of comments urging the 10,001 lb. threshold be raised to 26,001 lbs.

Copies of NPTC's comments on this rulemaking are being provided to your Committee. Although we did not recommend a change in the threshold definition, NPTC did support the right of individual states to exercise discretion over their enforcement of MCSAP safety laws on vehicles weighing less than 26,000 lbs., without jeopardizing their eligibility to receive MCSAP monies. A number of NPTC members operate medium and light duty vehicles. These companies, principally those involved in the delivery and service industries have excellent safety records, and believe they are impeded by a number of unnecessary requirements relating to these smaller vehicles. For that reason, NPTC urged FHWA to initiate a study of medium vehicle operations to determine whether, and, or to what extent, the gross vehicle weight rating threshold could be raised to exempt medium vehicles from Motor Carrier Safety Assistant Act requirements, without undermining safety. We continue in our belief for the need for such a study, and believe in the long run, ways can be found to increase the productivity of medium weight vehicles, without undermining the purposes and impact of the Motor Carrier Safety Assistance Program.

CONCLUSION

Mr. Chairman, in sum, we support the basic objectives of your Committee's Bill. We have made some recommendations for change, and particularly believe provisions relating to uniformity of registration and tax requirements are essential. Overall, we're pleased to support your effort and offer to work with your Committee to insure early reauthorization of the Motor Carrier Safety Assistance Program.

[National Private Truck Council Press Release, Mar. 6, 1991]

NATIONAL PRIVATE TRUCK COUNCIL, PROFESSIONAL DRIVERS OF AMERICA TO SPONSOR AND ADMINISTER NATIONAL TRUCK AWARENESS AND SAFETY PROGRAM

ALEXANDRIA, VA—The National Private Truck Council (NPTC) and the Professional Drivers of America, Inc. (PDA) have announced that they will jointly sponsor and administer PDA's Truck Awareness and Safety Program.

PDA's objective is to educate the public on how to share the roads with trucks, develop safer driving habits, and make the roads safer for all drivers.

The program works with school systems, community groups, and others. The program is typically introduced to a school by a company with a truck fleet. A company "adopts" a school and provides the program to that school. The program consists of a video on sharing the road with trucks, information brochures, a lecture and discussion, and, often, a hands-on inspection of a truck operated by the adopting company.

The Truck Awareness and Safety Program teaches awareness of truck characteristics, safe driving habits, and the role of trucking in the economy. It also takes a hands-on approach to learning; students hear from a truck driver who works in their neighborhoods and physically experience the enormity of the truck.

The program has been used for 6 years in 18 states. In the state of Utah alone, where the program was initiated, 26,000 people took part in the program in 1 year.

PDA is a nonprofit organization based in Utah. It was formed and is administered by Linda Householder, a former truck driver.

Gary Putman, Chairman of NPTC's Safety Committee, said, "This program came to NPTC's attention through the Council's Safety Committee * * * and we know a good program when we see it. Through the efforts of PDA, NPTC, and NPTC's 1,300 members nationwide, the Truck Awareness and Safety Program will have a major positive effect on truck and highway safety."

NPTC is the national organization of companies who use private truck fleets to fuel, feed, and deliver vital services and products to the nation. NPTC will support PDA through its tax-exempt nonprofit affiliate, the Private Fleet Management Institute (PFMI). PFMI promotes and sponsors research and educational programs.

Senator EXON. Mr. Bergoffen, thank you very much.
Mr. Spencer.

STATEMENT OF J. TODD SPENCER, COMMUNICATIONS DIRECTOR, OWNER-OPERATORS INDEPENDENT DRIVERS ASSOCIATION, INC.

Mr. SPENCER. Thank you, Mr. Chairman.

My name is Todd Spencer. I actually am communications director for the Owner-Operators Independent Drivers Association. Mr. Chairman, our headquarters, I am somewhat reluctant to say that, is in Missouri, having picked up a while ago that you were a basketball fan.

Senator EXON. I knew somebody would pick up on that. [Laughter.]

Mr. SPENCER. I appreciate the opportunity to present the views of small business truckers on this very important issue of MCSAP reauthorization. Highway safety is of paramount concern to small business truckers. It is in fact literally a matter of life and death for these people, who of necessity spend a large percentage of their working lives on this Nation's highways.

Accidents, even of a relatively minor nature, can result in substantial business loss or even business failure for them. Considering this, small business truckers are most concerned that the very limited financial resources available to address highway safety improvements are used to the best advantage possible in order to achieve real, tangible safety benefits. In other words, they want to get the best bang for the bucks.

While my written comments spell out in detail our positions on the various issues of concern, I will summarize a few of those most important to our members. One of the major original purposes behind MCSAP funding was to encourage all States to implement uniform commercial vehicle safety inspection programs. With the possible exception of some fine-tuning, this goal has for the most part been achieved.

Continued funding at increasing levels without an adequate review process which would recognize when goals have been achieved and trigger a redirection of valuable resources to new goals would be a tremendous waste of those valuable resources.

We therefore consider these deliberations very timely and hope that they will indeed result in redirected funding to focus on new areas of significant safety concern.

In regard to uniformity and reciprocity, while much has been accomplished by the Commercial Vehicle Safety Alliance, with a great deal of help from MCSAP money, the reality is that true uniformity and reciprocity have not been achieved. The result is burdensome,

duplicative reinspections of the same vehicles that are both disruptive to the industry and wasteful of inspection resources.

Uniformity and adherence to the critical safety item criteria is essential. Reciprocity, that is recognition by all jurisdictions of the decals indicating a recent inspection, is also essential. Resources should not be wasted reinspecting trucks just because they were inspected in another State or jurisdiction.

Compliance with these two important ingredients should be immediately mandated as a condition of receiving MCSAP funding.

On driver training, there is no area of highway safety in which the Federal Government could invest resources that would have a larger payback than mandated proper training of all entry level commercial drivers. The CDL was an important first step toward ensuring that commercial drivers are properly qualified, but unfortunately the CDL program is not a substitute for the proper training of entry level drivers.

For the primary focus of enforcement on drivers and equipment to continue to be basically "turn 'em loose and try to catch 'em" is to ignore the root cause of the problem and a major opportunity for real highway safety gains. OOIDA strongly encourages the committee to include a requirement for mandatory training of entry level drivers.

On size and weight enforcement, we note the working draft proposal addresses overweight containers. We strongly support this provision as well as stepped-up enforcement in all areas. We also suggest particular attention be paid to overweight containers and piggyback trailers moved by truck from railyards, as these problems are routinely exported from the ports to other areas of the country by rail.

OOIDA strongly favors redirecting a greater share of MCSAP funds toward compliance reviews of motor carrier operations, as well as increased penalties for serious violations or accidents.

We ask the committee to forgo involving local jurisdictions in commercial vehicle safety efforts. Adding locals would merely compound existing problems, while producing questionable safety benefits.

In conclusion, I would like to commend the committee for including uniform fine levels in its proposal. Ample documentation exists to act quickly on this problem. OOIDA also commends the committee for resurrecting the Drug-Free Truck Stop Act. Owner-operators have supported these efforts for years.

Thanks also for recognizing the need for training of law enforcement officers on how to identify impaired drivers, and hopefully, drivers of all vehicles. We also commend the committee for expanding the safety effort to include trucks over 10,000 pounds and for including intrastate operations. Legitimate safety efforts are in everyone's interest.

In conclusion, I brought along a copy of one of the types of tickets that we see often, more and more these days. I had intended to attach it to the back of the comments and I did not. It is referenced in our printed text. But basically, this is one officer's testimony, and this is a veteran PSC officer, and his comments were offered in testimony in court.

His comments related to a point system which Tennessee PSC officers must achieve in order to qualify for pay raises or promotions or, for that matter, to even keep their jobs at all. He stated that it was becoming more and more difficult to achieve his point quota because it was getting more difficult to find trucks with defects.

He attributed this to the fact that more States have implemented truck inspection programs and that overall trucks were now maintained in much better condition. And he also indicates that increasingly their officers are in a situation where they write questionable violations or even bad citations in order to maintain their quota, to maintain the pressure to crank out the roadside inspections.

We believe it is time for some redirection.

Thank you.

[The prepared statement of Mr. Spencer follows:]

PREPARED STATEMENT OF MR. J. TODD SPENCER

Chairman, members of the Committee, and Committee staff, my name is Todd Spencer. I am Communications Director and Treasurer of the Owner-Operator Independent Drivers Assn., Inc. ("OOIDA" or "Association"). In addition, I am responsible for representing the Association's positions on various committees of the commercial Vehicle Safety Alliance and other industry related activities. OOIDA is the national trade association representing the interests of the nation's more than 350,000 small business truckers, otherwise known as owner-operators. Owner-operators are small business men and women who own and operate individual Class 7 and 8 trucks and small truck fleets. The Association has more than 16,000 members who own and operate over 27,000 trucks. OOIDA members reside in all fifty states and several Canadian provinces.

COMMENTS OF THE ASSOCIATION

In establishing the Motor Carrier Safety Assistance Program ("MCSAP"), the Congress created incentives to encourage individual states to establish motor carrier safety inspection programs. Nearly all states now have commercial vehicle safety inspection programs. While most states have in place, commercial vehicle inspection programs, the quality of these programs among those vary substantially. Further, these inspections lack uniformity and many state agencies are unwilling to grant reciprocity to inspections performed in other jurisdictions.

This Committee now has before it the issue of reauthorization of the MCSAP program. In an era of intense competition for federal resources, the Association believes that it would be prudent for the Congress to evaluate reauthorization of the MCSAP program in light of overall highway safety needs and to ensure that those funds which are authorized are focused on areas that will provide the greatest safety benefits. In this regard, there are a number of changes which could provide substantial safety benefits. The Association urges the Congress to consider and incorporate these changes as it considers reauthorization of the present MCSAP Program.

Uniformity and Reciprocity

The Commercial Vehicle Safety Alliance ("CVSA") has taken important steps toward ensuring that the states' commercial motor vehicle safety inspection programs are uniform, and that they are focused on those items that are critical to safety. Further, CVSA has established a decal system that permits jurisdictions to recognize inspections performed by other jurisdictions. Unfortunately, not all jurisdictions apply the inspection criteria uniformly, and many do not recognize CVSA decals issued by other jurisdictions. The lack of uniformity places a burden on the trucking industry by requiring drivers and owner-operators to comply with criteria that vary widely from state to state. The lack of reciprocity burdens the industry by subjecting the same vehicle to multiple inspections. Multiple inspections are not only burdensome, they also waste inspection resources.

OOIDA believes that it is incumbent on the Committee to address the issues of uniformity and reciprocity as part of the reauthorization process. The Committee should specifically recognize the critical Item Inspection procedures as part of the MCSAP Program, and it should establish its use as a precondition to receipt of MCSAP funds. Further, the Association strongly urges the Committee to mandate that jurisdictions recognize a current CVSA decal as evidence of a safe vehicle, if no visible defects are detected.

An important issue in uniformity is the training of commercial vehicle inspectors. States will not perform inspections uniformly if they are free to train their inspectors without nationally-recognized standards. All commercial vehicle inspectors funded by the MCSAP program should be certified by a single entity, and the entity certifying them should also develop the qualifications for instructors. This will not only provide a greater degree of uniformity, but it will also contribute to sound management of the MCSAP Program.

Driver Training

There is no area of highway safety in which the federal government could invest resources that would have a larger payback than the proper training of all entry-level commercial motor vehicle operators. At present, there are no standard training requirements for entry-level commercial vehicle operators, despite the fact that these drivers create very large, sophisticated vehicles in close proximity to other drivers. As a result, many drivers enter the industry with no training, or improper training. While the goal of the MCSAP program is to inspect and correct vehicle and driver deficiencies, proper training can eliminate many of these problems before the vehicles are put on the highways.

OOIDA was a strong supporter of the Commercial Motor vehicle safety Act of 1986 ("CA"), which established the current Commercial Drivers' License program ("CDL"). The CDL was an important first step toward ensuring that commercial vehicle operators are properly qualified. Unfortunately, the CDL program is not a substitute for the proper training of entry-level drivers. Further, there are efforts within the trucking industry to dilute the CDL.

The chronic driver shortage that currently exists in the trucking industry has caused an unprecedented number of new drivers to enter the industry each year. This shortage is forecast to continue for the foreseeable future. As a result of the influx of new drivers, the CDL has become a "cottage industry" in the United States. Since passage of the CVSA a multitude of consulting firms have sprung up to train new drivers—not in how to properly operate commercial vehicles, but in how to pass the CDL examination. The cram courses used to pass the examination do not produce safe drivers. The scramble for more drivers has led motor carriers to insist on ever shorter courses designed to train students to pass the test rather than to safely operate a commercial vehicle. The CDL, while laudable, is not an effective substitute for effective entry-level driver training.

The Association raises the issue of driver training in the context of MCSAP reauthorization because the focus of the MCSAP Program is on finding vehicle defects and problem drivers through vehicle and driver inspections. To maintain a focus solely on "catching" problem trucks and drivers is to focus on only a small part of the problem. In other words, while providing substantial funding to catch the problems after they hit the highways, no resources are provided to correct the major cause of the problem. OOIDA believes that a far greater return, in terms of highway safety, is possible through ensuring that drivers entering the industry are properly trained to inspect and operate commercial vehicles. For that reason, the Association urges the Committee to include a provision that would require all entry-level drivers to be trained to industry standards. A policy of "turn-em-loose and try to catch-em" is hardly the best way to accomplish highway safety goals.

Compliance Reviews

While there are certainly problem trucks and drivers operating on today's highways, the other root cause of many of these problems are irresponsible motor carriers. Roadside inspections of individual trucks and drivers does not address the root of the problem. The Association strongly favors redirecting a greater portion of MCSAP funds toward compliance reviews of motor carrier operations, as well as, increasing penalties for motor carriers that have a pattern of serious violations of motor carrier safety regulations.

The acute driver shortage, combined with the intense competition among motor carriers, has led to a situation where many motor carriers force drivers to operate beyond their limits. Further, many large carriers do not properly maintain their equipment. Responsible, professional owner-operators and drivers are often the unwilling victims of such motor carriers. Company dispatchers, responsible for meeting shipper-imposed deadlines, put enormous pressure on drivers to deliver their loads on time schedules that simply cannot be met within safe operating practices. A focus on inspections of individual trucks and drivers does nothing to address this root problem.

COMMENTS ON MCSAP REAUTHORIZATION

Appropriate MCSAP Funding Levels

One of the major purposes of MCSAP Funding was to encourage all states to implement uniform commercial vehicle safety inspection programs. With the exception of some fine tuning, this goal has, for the most part, been accomplished. Continued funding at increasing levels with no review process which would recognize when goals have been reached and trigger a redirection of valuable resources to new goals would be a tremendous waste of those valuable resources.

New self-perpetuating bureaucracies are presently building around the existing MCSAP program which will call for ever increasing levels of funding. It is our view that the Congress must resist the pressures to simply feed that bureaucracy with more funding while less funding would be devoted to the intended purpose producing a diminishing return in highway safety.

A Tennessee commercial vehicle inspection officer said it best in a sworn deposition given in a lawsuit filed by OOIDA against what we consider to be some especially abusive inspection practices. His comments related to a point system which Tennessee P.S.C. Officers must achieve in order to qualify for pay raises or promotions, or for that matter, even to keep their jobs. He stated that it was becoming more and more difficult to achieve his point quota because it was getting more difficult to find trucks with defects. He attributed this to the fact that more states have implemented truck inspection programs and that overall trucks were now maintained in much better condition. Incidentally, he also testified to personal knowledge of officers who have written questionable or even bad citations in order to maintain their point quota. The practice, apparently, according to the officer was most common on brakes out of adjustment citations.

We believe that a far greater return in improved highway safety can be achieved at current funding levels or less if those funds are redirected to focus on new safety related projects. We also believe that no ground will be lost on current programs as a result of a new focus, because the states now have ample experience with their commercial vehicle inspection programs. In addition to the intended safety improvements, they have also discovered a substantial new source of revenue through associated fines and penalties.

OOIDA believes that, during the reauthorization process, Congress should require uniformity in the inspection process and reciprocity among Jurisdictions as a precondition to participation in the MCSAP Program. It should also adopt a component requiring entry-level drivers to be trained in a driver training program that meets comprehensive, quality training standards and increase its focus on motor carrier compliance reviews. These areas promise to yield significant highway safety benefits. The Association also wishes to express its concern regarding a proposed "enhancement" to the existing MCSAP Program.

Local Jurisdiction Involvement in Motor Carrier Safety Enforcement

The Association is strongly opposed to the inclusion of local jurisdictions in the MCSAP Program. Permitting increased participation by local jurisdictions will undermine the support for, and the effectiveness of, the MCSAP program. The inclusion of a greater number of jurisdictions, which may or may not be qualified to perform inspections, will place an undue burden on the trucking industry. Indeed, the Association believes that the Congress should, as part of reauthorization, preempt the ability of local jurisdictions to inspect vehicles traveling in interstate commerce.

Local jurisdictions are quickly recognizing untapped potential in motor carrier safety inspections. Unfortunately, the potential that they are recognizing is not in the area of safety; rather, it is in the area of revenue generation. A number of local jurisdictions are already inspecting commercial motor vehicles as a means of enhancing their revenues. Providing incentives for local jurisdictions to participate in MCSAP will merely aggravate this situation.

A particularly egregious, but not unusual, example occurred a few months ago in the City of Orange, California. A truck was stopped by city enforcement officials and was found to be approximately 500 pounds overweight. The fine normally imposed for this magnitude of weight violation by California state officials is \$20. The driver was initially fined \$6,000 by the municipal court. The fine was reduced on appeal to \$1,000. This fine represents 4 to 5 percent of the gross income of a typical truck driver. More importantly, the fine is substantially out of line with the violation and cannot be justified as anything other than revenue generation.

OOIDA fears that if local jurisdictions are encouraged to begin commercial vehicle inspections, there will be no way to control the quality of the inspections. The issue of quality of inspections is critical. For the inspection process to work, the regulated industry must believe that the inspection process is fair and uniform. This simply

cannot be accomplished if multiple jurisdictions within one state are involved in commercial vehicle inspections. Further, incentives for local jurisdictions are likely to result in increased incidents of multiple inspections of the same vehicle, thereby wasting inspection resources and placing an undue burden on commerce.

Fines and Penalties That Fit the Crime

Excessive penalties for minor safety violations are not exclusive problems with local jurisdictions. In the past year state lawmakers, both in New York and Maryland have approved legislation that dramatically increase penalties. To illustrate, I recently talked to a driver who had received a citation from the state of Maryland for not having made the most recent entry in his Drivers Daily Log. The driver was not operating beyond the limits of the hours of service regulations. In fact, he was less than 4 hours from him home, which he could have proven to the officer issuing the citation. He simply hadn't drawn the line—a paperwork violation. The officer cited him anyway, indicating that the fine would be \$30. A few days later, the driver received notification from Maryland that the fine was \$1,005—the statutory minimum.

State authorized fines in amounts even higher than Maryland's are collected every day in California for similar violations pumping, literally, millions of dollars into local courts. Although the hope is that fines are a deterrent, in reality when fines and penalties are out of balance with the severity of the violation the clear message conveyed to professional drivers is that the goal of inspections and enforcement is revenue—not safety.

The Commercial Vehicle Safety Alliance recently developed a uniform severity rating and fine schedule for commercial motor vehicle safety violations at the request of the Department of Transportation. CVSA adopted the schedule after more than two years of work. OOIDA believes the committee should require all states, jurisdictions and municipalities that engage in commercial vehicle inspections to adhere to the rating and fine schedule developed by CVSA. In addition, if the Committee chooses to include local jurisdictions in the MCSAP program, OOIDA believes that it must also limit these additional jurisdictions to inspections of critical safety items and remove their ability to charge fines in excess of those recommended by CVSA.

Proper use of very limited financial resources is very important. As the Committee considers reauthorization of the MCSAP Program, it should bear in mind not only the cost of the Program to the federal government, but also the cost that the Program imposes on the industry. The Congress must ensure that valuable resources are expended only for those measures that result in tangible safety benefits. The Association has outlined a number of measures that will result in increased highway safety benefits. It looks forward to continuing to work with the Committee to develop the reauthorizing legislation.

Thank you for the opportunity to share the views of the Owner-Operator Independent Drivers Assn., Inc.

DRIVER EQUIPMENT COMPLIANCE CHECK		COMPLETE AT END OF INSPECTION A527085		Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> HAZW <input type="checkbox"/> Other <input type="checkbox"/>		State of Company Tenn	
15 DAYS TPSC Address TENNESSEE PUBLIC SERVICE COMMISSION 460 James Robertson Parkway Nashville TN 37219		Address Gabor Trucking Inc Deloit Lakes Box 687		City Deloit Lakes MN		TPSC Stamp 405533	
Inspected At 1 Scales 2 Roads 3 Carrier Terminal		Inspection Location Route or City I-40 County Knox County No. 47		Inspection Date Mo Day Yr 4 18 89 Time Started 11:35 A.M. Time Ended 2:00 P.M.		1 Interstate 2 Intrastate 3 Private 4 Exempt for Hire 5 Bus 1 Regular 2 Hazardous Material 3 Hazardous Waste	
Driver Name John A Palmer		Date of Birth 9-2-55		Unit No. 7247		Unit Type PBT	
Driver License No. 10297788 TX		State TX		Lic. Sec. Number 075-44-2139		Co. No. 193	
Address 404 CR 213		City Venus TX		State TX		Zip Code 76084	
Commodity Transported Cone Paneling		Shipping Paper No. 5938		Vehicle Is 1 Owned 2 Term Leased 3 Trip Leased		Codes for Unit Types 1 Single Truck 2 Tractor 3 Semi Trailer 4 Full Trailer 5 Dolly	
Origin Huntsville AL		Destination Tomball TX		If cargo tank enter MC Spec or 'None'		If H.M. being transported under exemption enter 'E' No.	
Documents From Giles & Kendall Inc - Seward		TO Giles & Kendall Inc - Seward		1. Hazardous Materials 2. Hazardous Waste		Volume Code HQ HW	
A MEMBER OF THE TPSC REMOVED SEAL NO.		IN ORDER TO INSPECT THE CARGO BEING TRANSPORTED. THE SEAL WAS REPLACED WITH TENNESSEE P.S.C. SEAL. NO. ON COMPLETION OF INSPECTION.		Placards Required Yes No		Codes for Hazardous Materials	
Out Of Service		48 C.F.R. Section No.		Violation Disclosed		1. HAZARDOUS MATERIAL 2. HAZARDOUS WASTE	
393.76		Tractor:		Sleepers birth missing sheets			
396.3A		Tanker:		Left Rear brake push Rod typhos 2 1/8"		NO VIOLATIONS YES	
396.3A		Right Rear brake push Rod typhos 2"				Warning YES	
						Truck Out Of Service YES	
						Driver Dealt YES	
						Count	
						Truck Out Of Service Driver Dealt ECOM Violation Alcohol Control Sub. HWM Miscellaneous	
Bond		Wired		Cash		Bond Receipt No.	
OUT OF SERVICE NOTICE		MOTOR CARRIER CERTIFICATION OF ACTION TAKEN		I CERTIFY THAT ALL VIOLATIONS NOTED UPON THIS REPORT HAVE BEEN CORRECTED AND ACTION HAS BEEN TAKEN TO ASSURE COMPLIANCE WITH THE MOTOR CARRIER SAFETY REGULATIONS INsofar AS THEY ARE APPLICABLE TO MOTOR CARRIERS AND DRIVERS.		Signature Of Carrier Official:	
PURSUANT TO AUTHORITY CONTAINED IN TENNESSEE PUBLIC SERVICE COMMISSION RULE 301.6, I HEREBY DECLARE AND MARK THE FOLLOWING VEHICLES OUT OF SERVICE. NO PERSON SHALL REMOVE THE HAZARD STICKERS OR OPERATE SUCH VEHICLES UNTIL NECESSARY REPAIRS HAVE BEEN COMPLETED AND THE VEHICLES RESTORED TO SAFE OPERATING CONDITION.		I certify that the VIOLATIONS DISCLOSED and marked by an "X" in the OUT OF SERVICE column have been satisfactorily repaired.		Signature Of Repairman		Date	
Name Of Shop (Garage)		Time		Title		This entire sheet must be returned to the TPSC within 15 days to the address above	
Inspected By: <i>Sign M. White</i>		Region		Office		Copy Returned By: <i>X Gabor</i>	
FOR MOTOR CARRIER'S RETURN TO TPSC WITHIN 15 DAYS							

Senator EXON. Thank you all very much, all three of you, for some excellent testimony. A lot of things came up here. I'm going to ask all of you a couple of questions that, the first question at least, has not been on the agenda and I am sure you were not asked about it.

But since all of you undoubtedly have some experience in this area, I would like to know whether or not you think we have made significant progress to a problem that we uncovered, that was

brought to our attention, a few years back, and that was primarily a matter of intrastate truckers having difficulty, in relatively few States, but in those few States it was not uncommon for the local enforcement authorities to wait for an intrastate truck to come off of the interstate highway and try and deliver something on the local road systems, and that truck did not meet the specifications exactly of the off the interstate road structures and therefore it was in violation of the State laws.

Interesting, though, that they seemed to pay no attention whatsoever to interstate trucks. They would let them go.

Have we had—I will not mention the States that I remember very vividly. Two or three were mentioned very prominently. We have had a lot of oversight hearings on that subject. I have not heard too much about it lately. I made some inquiry of some people in the business and they said that it was still going on in some places.

Has there been to your knowledge a significant improvement in this matter of laying in wait for intrastate trucks coming off the highway to use local roads and operating those under a different standard than interstate trucks?

Ms. BATTS. Well, there certainly has been a lot of improvement in that area. The Department of Transportation has issued their final rules. There is still some implementation problems in a couple of States.

Interestingly enough, the rules that were finally issued were what the industry had been calling for since 1982. It is too bad it took so long.

We do have a couple of States in which we still have some problems. We thoroughly expect however, that those problems will shortly be resolved satisfactorily. We appreciate the committee's interest in this issue, in giving the issue the exposure it needed, and ensuring that proper regulations were issued by the Federal Government.

But, the burden of proof has been shifted to the States to prove these vehicles are unsafe. We think that the solutions are present and will be worked out.

Senator EXON. You did not mention the States. Are the State that they are still having trouble with some of the States that we had original problems with when this matter was first taken up?

Ms. BATTS. Yes, sir.

Senator EXON. I am not asking you to name any States.

Ms. BATTS. Well, I would be glad to.

Senator EXON. If you want to name them—

Ms. BATTS. No. They are the same States that we have discussed before. By and large it is an attitude problem that the State highway department has, regardless of what the rules are.

But we are confident we are going to work it out.

Mr. BERGOFFEN. I would like to add to that. I think the definition of a terminal was one of the critical issues, and that was very effectively resolved in the Department of Transportation's ruling.

Additionally, the industry always agreed that the fundamental condition for travel should be safety, but now the burden has shifted to the States, to indicate that safety is a concern. And we are

certainly happy, when that has been shown, to go along with that finding.

But in most cases, these goods can be delivered directly to the customer now under these new regulations.

Mr. SPENCER. Our members, Mr. Chairman, experience problems in those areas as well, problems in the areas of selective enforcement. We run into situations where, especially where we are considering overweight enforcement, there are a number of States, or ports for that matter, will issue permits for overweight containers. There are overweight permits that are actually grandfathered type permits, that are only eligible in certain jurisdictions and things like that.

And you know, it is a hard sell to a trucker and it is not really a square deal to a truck to say: "Well, this obviously can run way heavy, he can ignore the rules because he is here and he is established, and you cannot." Those things go on.

There are some times—usually we hear about them the hard way, where one of our people has a problem. I was somewhat amazed to see a rule in Illinois that basically says, for anything other than their interstate highways, they actually have an exterior bridge limit. Now, they say it is a designated road and that it conforms to the surface transportation requirements. We have a very difficult time believing that.

Ironically, they say a vehicle can only have a 55-foot exterior bridge. That would be from axle one to axle five. And ironically, they say they will allow 53-foot trailers to operate on those highways. Now, that would be a very interesting configuration.

But yes, truckers, unsuspecting truckers, are cited, fined for those types of violations regularly, because they would not know and commonsense tells them that it should not be that way.

Senator EXON. Well, that is very unfortunate. The States do need money, but it would seem to me like the States, having been a Governor and been a States' righter, States have to recognize there are some fairness doctrines, I think, if not spelled out in law, then spelled out in custom. And we want to continue to keep taking a look at that.

My other question has to do with what I mentioned earlier, the driver's testing program. We have had generally good testimony, that those things worked very well. There was a great deal of concern for it in the beginning, I suspect maybe from members of your organization, Mr. Spencer, as much as any other, that basically the original testing rules and guidelines that were put out by the Department of Transportation were not reasonable. And we had an awful lot of complaints.

Are those complaints still going on, or do you think that that matter has been basically resolved?

Mr. SPENCER. Senator, in regard to complaints over the licensing setup itself, we are always open to complaints in the areas of dollars that are going to be charged for it, because that is a State.

Senator EXON. That was not the thing. It was that the tests were not realistic and the best truck driver in the world, that everyone has recognized and received all kinds of awards, could not pass the test because it was not a truck driver's test, it was a test that

somebody sitting in an ivory hall had written up, not knowing anything about the rubber meeting the road.

Mr. SPENCER. Those questions are on there and we anticipate, correctly, that drivers that have problems with reading skills and that would not be good test takers would struggle with that, some aspect, some questions of the test.

Now, our experience as an industry organization is exclusive with owner-operators, but 98 percent of our people are passing that test no problem. Now, I have talked to truckers that said: "Hey, I have no intentions of taking it, I have trucked for 30, 35 years with an admirable safety record; if that is not good enough for those people in Washington, hey, it is time for me to retire anyway." We are going to have those.

Ironically, our organization supported the CDL because we thought it was absolute ludicrous that a State could give somebody a license and say, you are qualified to drive, based on them taking a test in an automobile or maybe taking no test at all. But that is the way it was.

We needed some kind of testing mechanism. We tend to think there is too much stock being put in the CDL as some kind of indicator that somebody is going to be a good driver, because I will guarantee you there is no way it is going to measure attitude, it is going to measure commonsense. And those are the key things.

You know, the driver is the critical ingredient in any operation, whether it is a truck or a car. And if he is not qualified, if he is not properly trained and he does not have the correct approach to his position, you know, it is only a matter of time until a problem manifests itself in some ways.

Now, we are hearing problems with the CDL now and we will hear more problems with the CDL, and you are going to hear it and you are going to get a different perspective. Some industry organizations, some people, are going to be coming to you and saying: "We have got 40 percent of our drivers or 30 percent of our drivers have got suspended licenses, have had suspended licenses."

And there is data that is going to float in those computers right now that is going to indicate large numbers of suspended licenses in this industry. But what in fact they are, these are old violations that have floated around in computers. They may be an equipment violation, it may be a fix-it ticket violation that was never written out of somebody's computer.

I have seen them from the early 1980's on companies that were no longer in business, and the violation had nothing to do with the driver, yet it hangs on that professional operator's license.

Yes, we know we are going to hear more about suspended licenses, and that is the major cause of suspended licenses that is going to be in our computer system.

In our comments, yes, we support mandatory training. This industry, the trucking industry, is in the midst of an extreme driver shortage and the Department of Labor forecasts that to last until the turn of the century. And everybody in this business knows new drivers are going to have to be new people. It is generally accepted they are going to be immigrants, they are going to be minorities, there are going to be more female people.

It is absolutely ludicrous to spend all of this money on basically let us turn them loose and try to catch them and get them straightened out off on the road. We firmly believe driver education for the commercial driver is crucial, and it is also crucial for drivers of automobiles that our people have to share the road with.

We hear and we talk a lot about commercial vehicle accidents and fatalities, but every data bank that is around that analyzes responsibility for accidents shows that it is the driver of the other vehicle that has caused the accident in the vast majority of instances.

And our guys do the best they can, but they are not going to be perfect.

Senator EXON. Well, I just want to put this in. I do a lot of driving. The 8 years I was Governor, I did not do much driving because I always had a trooper there to do the driving for me. Yet, even then I did a lot of personal driving, vacations and like that.

Then when I advanced to this exalted position, I have been driving myself everywhere, and I frequently travel the highways and byways of Nebraska, and there are an awful lot of trucks on I-80. But I must say that it has always been my feeling that by and large the professional truck driver is the best driver on the road.

He is driving a very dangerous piece of equipment if he pulls out when I am trying to pass him, but I have never had one pull out when I am trying to pass him. So, by and large, I think we have an excellent group of drivers.

I am somewhat concerned about the lack of people coming into the occupation. Generally speaking, I have always had the impression that the pay is quite good in the occupation, but the quality of life is not very good. The quality of life, is that the main problem, or is it the pay?

Mr. SPENCER. Well, there is a reasonably small segment of trucking that is well paid, and that is generally those motor carriers that are involved in CDL operation, and there would be a relatively large percentage of those would be unionized jobs, where scales are set.

You know, again we are talking about basically maybe the top percent of the motor carriers that are in the country. From 1980 or actually even going back to 1979, for 11 years pay in the trucking industry for drivers lagged behind any other occupation that I am aware of, and lagged seriously behind.

During the same time, trucking has weathered some pretty heavy times and shippers, carriers, they do not mind asking for as much as they can get. It is not an easy lifestyle. The job is very, very demanding. The types of salaries available to the majority of truckers for over the last decade have been relatively flat, and you are looking in the area of \$20,000 to \$25,000, and there is going to be expenses come out of that as well.

Now, as we are seeing, we are finally seeing what we believe a driver shortage that is going to manifest itself in some improvements for the driver, and that we are starting to see some motor carriers that use the service of drivers raise their rates, some of those that were the leaders basically in keeping rates down.

It may turn around of its own accord. Hopefully it will. Again, this is a very important position. It is a high-skill position and we

have to have good people, and we have to be willing to pay them to attract them.

Ms. BATTS. Mr. Chairman, if I could follow on.

Senator EXON. Yes.

Ms. BATTS. I think that when you look at the question of the CDL, there were some initial concerns about the test. But what we found out is that when people study, they pass the test.

I got a call from my brother the other day who drives triples in Montana, so excited because he had scored a perfect 100 on the test. He was very proud. Although he had been driving for 15 years, he was very proud.

But the CDL has uncovered some illiteracy problems. We knew we were going such a problem, and we established some ways to deal with it. Unfortunately, where someone is illiterate, it is very difficult for them to come forward and say: "I am illiterate; can I take the test orally"?

But we have hard core illiteracy which is endemic throughout the United States. There is legislation which has been introduced to deal with illiteracy in the trucking industry. We look forward to working with Congress to see if we cannot get funding to deal with the illiteracy problem.

I think there is another solution to the driver shortage. One of the areas that one would normally look to, for example immigrants, must be able to read English, and understand the road signs, particularly if they are hauling hazardous materials. We just cannot understand why anybody would want to allow a non-English-speaking driver hauling hazardous materials.

We also have a problem because much of the training funding that has normally gone into trucking is being seriously eroded. Some of it is understandable, given the problems with some of the truck driver training schools. That is why the trucking industry and everybody at this table have stepped forward and supported the Professional Truck Driver Institute of America.

We are very much concerned, though, about the level of funding proposed by some in Congress. We certainly would urge this committee to become involved in that process, primarily because if it eliminates training for truck drivers then we are going to have a bigger driver shortage.

There are ways we can assure quality in training programs without cutting all training programs.

And finally I would like to say that the commercial driver's license had two main functions. One was to make sure that everybody who was driving a truck has passed some performance standard. The other one was to make sure that we could get rid of bad drivers who had piled up too many points on all of their licenses.

Now, we are going to catch them and when we do they are not going to get another license.

With only one driver's license, we will be able to catch bad drivers. And with your bill, with its increased enforcement on the commercial driver's license, we are going to allow the local policemen get involved in this process, so long as they are highly trained and meet the MCSAP standards. We now have a total package that includes all environments on the highway. We begin with the driver. He or she was the obvious individual to look at first, given that

most accidents are caused by human error, as they are in any industry.

The second thing we addressed was the vehicle. We are making sure only the best equipment is out there.

Third, we considered the load, and particularly hazardous materials. We have also looked at the highways, trying to get at those areas where there have been traditional safety problems.

We all know that every Friday night there is going to be an accident on one segment of the Beltway. We need to fix those.

Finally, the one area that has not been addressed, and which my testimony tried to address, is the shipper. The shipper is the individual who makes it all run. Traditionally we have not held the shipper responsible for what he has done.

Last year the hazardous materials bill started to recognize that the shipper does indeed bear some responsibility when he is shipping hazardous materials. I would submit that those same kinds of rules and philosophy should be applied in the next safety bill, so that we then get a total comprehensive package. There should be no competitive advantage because one ignores safety rules.

Senator EXON. Well, thank you. Just let me say that—a little editorial comment here—all of these safety issues are very important and in my several years experience in this now I think we are beginning, with the help of the industry, to make some tremendous strides, and some of the testimony we have had today with regard to the safety record that we are continuing to build up.

We still have more to go. We have got some ways to go, but we are on the right track. I still feel that, basically, the driver, his training, his experience is absolutely critical to the whole process.

You can have the best shipper in the world on hazardous materials or otherwise, that follows the book perfectly, and you can have the enforcement people running things well, you can have the weigh station saying this is fine, but if you have not got the right person, professionally trained and certified, behind that wheel, everything else falls of its own weight.

Do you have anything to add to this, Mr. Bergoffen?

Mr. BERGOFFEN. I think that Todd and Lana outlined it well. I feel and have said that I do not think we in the long run will have a physical shortage of drivers. We will have an economic shortage, and that relates not only to what we pay them but to their quality of life.

If anything is happening now, it is that the companies and their drivers are getting closer together. Companies are realizing that drivers are intrinsic to their total employment system and that the best way to have drivers is to keep drivers and to listen to drivers and to work with drivers and involve them and recognize their achievements.

Adding to what my colleagues have said, I think that is happening, and it is going to be a natural thing that you will see. We will have shortages in various places and in various kinds of operations, but I think we are on a good track.

Senator EXON. Just let me say that I have talked to lots of truck drivers. You know, they are a very interesting group of professional people. They have a great human side to them. We motorists understand that sometimes we do not like them splashing dirt on our

windshield when they go by us or think they are hogging the roads a little bit.

But I must tell you that I think that we should give credit to them for the professional job overall that they do out there on that road. And usually when there is an accident of some kind, it is a truck driver who is the first one to stop and give assistance.

Of course, weatherwise and everything else, I do not know what we would do without their expertise in handling those microphones and those radios that they talk to each other on. They are a very interesting group of people and sometimes I do not think we give them full credit for the key role that they do play in our whole interstate commerce and business activity.

Thank you very much. There may be some additional questions for the record, but we appreciate very much your coming here, supporting generally the bill that we are working on. We want to continue to listen to any suggestions you have that can make it better.

Thank you very much, and with that we are adjourned.

[Whereupon, at 4:13 p.m., the subcommittee was adjourned.]

APPENDIX

PREPARED STATEMENT MR. CLAUDE M. LIGON, MARYLAND PUBLIC SERVICE COMMISSION

My name is Claude Ligon and I am a Commissioner with the Maryland Public Service Commission. I also serve as Chair of the Committee on Transportation and as a member of the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC) on whose behalf I submit this statement today.

The NARUC is a quasi-governmental, non-profit Association founded in 1889 which is comprised of the State commissions charged with the regulation of our Nation's utilities and carriers. Many of our members are responsible for the implementation of Federal safety laws relating to motor carriers and are participants in Department of Transportation (DOT) programs established under those statutes. It is in support of this program that I submit this statement for the record today.

We greatly appreciate this opportunity to dress our views on the subject of motor carrier safety, an issue of vital importance not only to the economic well-being of our national system of surface transportation, but also to the health and welfare of the American citizens who share our highways with the motor carrier industry. Our goals are to discover feasible solutions to the various safety problems in the motor carrier industry and to work with both the Federal government and industry toward the national implementation of these solutions.

Today, the NARUC wishes to express its strong support for full funding for the DOT motor carrier safety programs for 1992, and in particular to urge that the Department's safety grants-in-aid programs be funded at the highest possible levels. Such grant-in-aid programs provide for voluntary State implementation of Federally-mandated safety standards through the sharing of up to 80 percent, in the case of motor carriers, of the States' cost of implementing the programs.

Specifically, we request a funding level of \$60 million for motor carrier safety program.

This program has greatly improved the safety of the nation's transportation systems. In addition, it provides tremendous efficiencies for the Federal government with respect to the enforcement of Federally-mandated safety standards. Leveraging limited Federal monies through the mechanism of cost-sharing is economically efficient and provides a significant return in the form of avoided accidents. Nationally, the States, through such joint Federal-State programs, provide from about 33 percent to over 90 percent of the man-power available for transportation safety enforcement at only a fraction of the Federal funding level which would otherwise be required.

The NARUC is vitally concerned about the future of these safety programs since our members include those State regulatory agencies which are current and potential participants, and since we are charged with the protection of the public interest. We strongly oppose any effort to eliminate or reduce funding for DOT safety grants-in-aid.

THE MOTOR CARRIER SAFETY ASSISTANCE PROGRAM—\$60 MILLION

As part of the Surface Transportation Assistance Act of 1982, Congress established the Motor Carrier Safety Assistance Program (MCSAP) which provides Federal funds of up to 80 percent of a participating State's safety program costs. The MCSAP program has enabled the States to initiate or substantially increase their safety enforcement activities. Nearly all the States and U.S. territories now participate in the MCSAP program. In addition to increasing the number of safety inspections and safety management audits performed each year, the program has also improved the quality and uniformity of these activities. By requiring the adoption of Federal safety regulations as a prerequisite for funding and monitoring the States' activities, the DOT has been able to utilize the program to achieve a high degree of standardization in safety enforcement across the country.

Last year (FY 1990), State participation in the Motor Carrier Safety Assistance Program resulted in over 1,430,000 roadside safety inspections—over eight times the number performed in 1984. These inspections resulted in 541,575 vehicles and 112,381 drivers being placed out of service [See Appendix A for State-by-State breakdown]. Hazardous materials inspections have also increased significantly over the past few years, totalling 137,150 in FY 1990. The MCSAP had made this possible by funding and training the State safety inspectors.

Other important elements of the MCSAP program are the development of a nationwide safety information system and the safety compliance audit program. The "Safetynet" data base program enables the participating States and the DOT to closely monitor motor carriers with high accident rates or a history of serious safety violations. The exchange of safety information will mean that companies which need assistance in the development of safety programs and those who consistently refuse to comply with safety regulations can be identified. Currently, over forty States are uploading carrier safety information into the database.

The safety audit program serves to ensure that carriers understand and comply with the basic safety regulations as set out by the DOT. These audits involve, among other things, the analysis of the company's driver qualification records, hours of service logs, and equipment maintenance records. The audit program supplements the roadside inspection programs and encourages companies to fully comply with applicable safety standards. The number of safety audits has increased significantly under the MCSAP program and some States are now performing these audits to ensure the safety of all companies which apply for intrastate operating authority. During FY 1990, States conducted 12,000 safety reviews, compliance reviews, or other safety management audits, about 20 percent of those completed since October 1986 when the program began.

A recent General Accounting Office (GAO) report released on January 9, 1991, found that while the Federal Highway Administration had "accomplished a great deal, about 129,000 carriers must be rated before the agency's established deadline of September 30, 1991, for rating all carriers." The GAO found that there were two obstacles to meeting this goal. The first obstacle was that the carrier population is constantly changing with 21,000 new carriers entering the market in 1989 and established carriers going out of business or merging. The second obstacle to attaining the goal was the limited number of safety investigators assigned to this task.

Finally, MCSAP funding also contributes to State enforcement of the commercial driver's license mandated by the Commercial Motor Vehicle Safety Act of 1986.

The Administration has requested that \$60 million be appropriated for the MCSAP program for 1992. In support of this funding level, we would stress that the success of the Federal-State partnership in motor carrier safety is increasingly evident. It is critical to the safety of our highways that both the Federal and State commitment to the uniform enforcement of motor carrier regulations be maintained at the highest possible level. Full funding of the Administration's request will help ensure that this commitment is fulfilled.

Thank you for your attention.

APPENDIX A—MCSAP Quarterly Report Information System—Summary of State Activity for Entire Fiscal Year 1990

State	HM Inspec- tion	Non-HM In- spec-tion	Bus Inspec- tion	Total Inspec- tions	Vehicles OOS	Percent OOS	Drivers OOS	Percent OOS	Carrier reviews			No. HA- related	
									SR-1's	CR-1's	SMA's		Total
Connecticut	1,325	17,131	6,049	24,505	5,526	34.8	748	3.1	273	8	0	281	0
Massachusetts	1,713	19,494	116	21,323	3,586	16.8	1,067	5.0	355	0	0	355	89
Maine	347	5,659	21	6,027	3,252	54.0	765	12.7	93	37	0	130	73
New Hampshire	343	5,643	1,591	7,577	1,304	17.2	436	5.8	47	0	0	47	5
New Jersey	2,439	34,862	8,885	46,186	12,734	27.6	2,571	5.6	88	0	0	88	0
New York	5,460	42,769	0	48,239	25,380	52.6	2,630	5.5	8	0	0	8	0
Puerto Rico	612	1,670	4	2,286	897	39.2	152	6.6	0	0	0	0	0
Rhode Island	364	4,754	30	5,148	2,202	582	582	11.3	0	0	0	0	0
Vermont	463	4,076	23	4,562	1,805	39.6	109	2.4	6	0	0	6	6
Delaware	332	3,513	33	3,878	1,563	40.3	486	12.5	0	0	0	0	0
Maryland	4,272	46,396	825	51,493	14,972	29.1	1,909	3.7	168	0	0	168	27
Pennsylvania	3,204	52,994	320	56,508	19,426	34.4	3,274	5.8	0	0	0	0	0
Virginia	2,908	43,704	713	47,325	17,048	36.0	3,166	6.7	0	0	0	0	0
West Virginia	673	16,857	678	18,208	4,214	23.1	1,336	7.3	313	45	0	358	36
Alabama	907	10,925	16	11,848	4,586	41.0	1,234	10.4	93	0	0	93	16
Georgia	5,279	22,547	798	28,624	12,729	44.5	4,212	14.7	34	0	0	34	0
Kentucky	8,244	137,316	350	145,910	44,396	30.4	5,935	4.1	137	0	0	137	0
Mississippi	1,023	12,710	4	13,737	6,024	43.9	1,018	7.4	0	0	0	0	0
North Carolina	5,560	57,836	420	63,816	21,352	33.5	3,914	6.1	1,151	0	0	1,151	46
South Carolina	2,317	15,694	401	18,412	6,631	36.0	2,255	12.2	215	0	0	215	20
Tennessee	9,504	107,200	72	116,776	58,059	49.7	9,394	8.0	124	0	197	321	84
Illinois	28,752	55,423	831	85,006	14,004	16.5	2,939	3.5	335	0	0	335	61
Indiana	2,793	46,541	613	49,947	21,497	43.0	2,372	4.7	403	0	0	403	29
Michigan	2,765	48,741	3,470	54,976	16,592	30.2	2,027	3.7	162	0	218	380	24
Minnesota	1,590	31,010	321	32,921	9,383	28.5	2,392	7.3	431	0	35	466	174
Ohio	8,417	78,236	419	87,072	25,735	29.6	6,710	7.7	498	33	0	573	33
Wisconsin	631	20,075	117	20,823	8,301	39.9	3,147	15.1	573	0	0	573	10
Arkansas	2,685	42,647	50	46,382	10,490	23.1	3,798	8.4	183	0	0	183	15
Louisiana	4,191	31,596	226	36,013	12,905	35.8	3,612	10.0	0	0	0	0	0
New Mexico	591	9,192	4	9,787	3,722	38.0	729	7.4	0	0	0	0	0
Oklahoma	1,902	10,940	31	12,873	4,359	33.9	1,076	8.4	0	0	0	0	0
Texas	3,434	58,882	97	62,413	15,919	25.5	6,319	10.1	7	0	0	7	4
Iowa	1,251	35,811	3	37,065	10,795	29.1	2,475	6.7	0	0	0	0	0
Kansas	1,504	11,968	4	13,504	5,855	43.4	1,002	7.4	205	0	303	508	105

APPENDIX A—MCSAP Quarterly Report Information System—Summary of State Activity for Entire Fiscal Year 1980—Continued

State	HM inspection	Non-HM inspection	Bus inspection	Total inspections	Vehicles OOS	Percent OOS	Drivers OOS	Percent OOS	Carrier reviews			No. HAI-related
									SR-1's	CR-1's	SMAs	Total
Missouri	4,245	56,985	120	61,360	29,476	48.0	7,814	12.7	420	68	8	496
Nebraska	910	18,282	53	19,245	4,361	22.7	2,823	14.7	573	0	0	573
Colorado	3,180	40,481	124	43,785	17,754	40.5	3,895	8.9	93	0	0	93
Montana	755	20,479	57	21,291	3,701	17.4	1,936	9.1	126	0	0	126
North Dakota	685	8,782	5	9,472	1,970	20.8	580	6.1	284	0	0	284
Utah	1,111	13,507	88	14,706	6,373	43.3	944	6.4	340	277	0	617
Wyoming	907	4,250	3	5,160	1,378	26.7	356	6.9	0	0	0	0
American Samoa	63	864	1,016	1,943	554	28.5	36	1.9	1	0	0	1
Arizona	430	16,777	19	17,226	6,097	35.4	3,291	19.1	0	0	0	0
California	1,886	26,594	741	29,321	11,515	39.3	1,563	5.3	299	0	0	299
Guam	143	3,111	777	4,031	1,521	37.7	165	4.1	0	0	0	0
Hawaii	150	4,014	1,682	5,826	1,854	28.4	138	2.4	1	0	17	18
Nevada	911	7,191	903	9,005	3,164	35.1	677	7.5	85	0	0	85
Alaska	46	514	177	737	292	39.6	3	0.4	0	0	0	0
Idaho	920	6,864	18	7,802	2,187	28.0	563	7.2	112	0	0	112
Oregon	1,404	17,310	39	18,753	7,022	37.4	587	3.1	0	0	0	0
Washington	1,509	39,880	8	41,937	12,225	29.5	1,219	2.9	0	58	0	58
Total	137,150	1,430,795	33,345	1,801,230	541,575	33.8	112,381	7.0	8,236	526	1,101	9,863
												1,287

LETTER FROM MR. WILLIAM H. DEMPSEY, PRESIDENT, ASSOCIATION OF AMERICAN
RAILROADS, TO SENATOR EXON

MARCH 27, 1991.

The Honorable J. JAMES EXON,
U.S. Senate,
Washington, DC 20510

DEAR MR. CHAIRMAN: I am writing in response to testimony offered by Lana Batts, senior vice president of the American Trucking Associations (ATA), at the subcommittee's March 13, 1991 hearing on the reauthorization of the Motor Carrier Safety Assistance program (MCSAP). I request that these comments be made a part of the hearing record.

The Association of American Railroads (AAR), whose members move more than 90 percent of the nation's rail freight, rejects ATA's written testimony that a "Railroad Safety Assistance Program, for the nation's rail carriers, modeled after the Motor Carrier Safety Assistance Program for motor carriers would help ensure a safer transportation system." AAR further objects to Ms. Batts' oral testimony that the railroads' safety record is "bad and getting worse."

At the outset, it should be noted that ATA in 1990 circulated a document entitled "A Program of Railroad Reform." Professing concern for modal equity, the document was in reality a catalogue of costs that ATA would seek to impose upon the freight railroad industry. In fact, Ms. Batts herself was quoted in the October 8, 1990 issue of *Traffic World* as saying, "I'm going to try and cost them (the railroads) as much money as I can." Presumably, ATA's testimony before the subcommittee is in keeping with this intention.

Contrary to ATA's views, recent years have seen a dramatic improvement in virtually every category of railroad safety statistics. The decline in train accidents and employee injuries during the 1980s was substantial. Between 1980 and year-end 1990, the rate of train accidents tumbled by 58 percent. The employee injury rate plunged by 33 percent during the same period.

By way of comparison, a Bureau of Labor Statistics publication entitled "Occupational Injuries and Illnesses in the U.S. by Industry," published in August, 1990, shows that in 1988, the latest year for which information is available, railroads had fewer job-related injuries and illnesses for every 100 workers than most other transportation modes. The same statistics show that trucking employees had twice the rate of injuries and illnesses as railroad employees in 1988.

The railroads' safety record during the 1980s is directly attributable to a financially healthier industry. The Staggers Rail Act of 1980 set the industry on an improved financial course. As a result, railroads have been better able to invest in fixed facilities and equipment, as well as specific safety programs. These efforts are continuing.

Apart from steps being taken by individual railroads, industry-wide safety programs include an impressive list of initiatives, such as: formation of an Inter-Industry Task Force on the Safe Transportation of Hazardous Materials by Rail, adoption of crashworthiness standards for new locomotives, revision of standards for the approval of new car designs in interchange service, an expanded auditing program for manufacturers of certain critical freight car components, amended rules to facilitate the introduction of heat-treated, curved plate wheels, increased efforts to deal with truck designs that enhance hot-box detection, and an important change in freight-car braking tests that could almost double the current success rate in discovering brake system defects.

ATA testified before the subcommittee that the solution to railroad safety problems is to allow inspection and enforcement at the state level. Under the Federal Railroad Safety Act (FRSA), state agencies are already authorized to carry out investigation and inspection activities in connection with railroad safety regulations if those activities are undertaken in accordance with certification requirements of the Federal Railroad Administration (FRA). Some 110 inspectors in 31 states are currently authorized to participate in this program.

ATA noted correctly in its testimony that FRSA bans states from automatically pursuing enforcement actions against railroads. In enacting FRSA 20 years ago, Congress explicitly decided that the prosecution of violations of railroad safety laws should be the sole province of the federal government. Congress specifically determined that such prosecution by states of federal regulations would lead to inconsistencies and would be burdensome and counterproductive: "To subject a carrier to enforcement before a number of different State administrative and judicial systems in several areas of operation could well result in an undue burden on interstate commerce." House Report No. 91-1194, June 15, 1970, reprinted in 1970 U.S. Code Cong. & Admin. News 4104, 4109, 4110.

One of the principal safety problems identified by ATA is that of grade crossing fatalities. According to Ms. Batts, accidents which occurred at grade crossings in 1989 resulted in more than 800 deaths. In fact, FRA statistics published in Accident/Incident Data, 1980-1990 shown that grade crossing fatalities fell to fewer than 700 deaths in 1990, some 16 percent below their level in 1980. In addition, grade crossing accidents dropped by 47 percent between 1980 and year-end 1990.

Grade crossing safety is not a railroad safety problem. It is a highway safety problem. Grade crossing fatalities and accidents do not occur because of safety defects associated with railroad facilities and equipment. For the most part, they occur because of motorists' disregard for signals and devices designed to provide warning of oncoming trains. ATA's recommendation to allow inspection and enforcement at the state level through a Railroad Safety Assistance Program would do little to contribute to the problem of grade crossing safety.

Federal railroad safety regulations impose requirements for specific safety inspections by railroads. A recent AAR survey found that more than 13,000 employees of Class I railroads inspect freight cars or oversee direct safety-related functions as their predominant duty. The survey found that an additional 2,176 employees spend at least half their time inspecting track. The full cost of these employees is paid by the railroads—as opposed to roadside safety inspections conducted pursuant to MCSAP.

Under MCSAP, inspections are federally financed out of the Highway Trust Fund, and matched with state money. However, all motorists—not just truckers—pay fuel taxes into the Highway Trust Fund. Moreover, the Federal Highway Administration's three-year highway cost allocation study, completed in May, 1982, concluded that operators of heavy combination trucks significantly underpay their direct cost responsibility, thereby increasing the subsidy received by truckers under MCSAP.

The subcommittee should also note that under present Law, railroads will be paying \$169 million through 1995 to reimburse FRA for safety reviews of carrier records and physical inspection of track and rolling stock. By contrast, the Motor Carrier Safety Program, an auditing program wherein federal inspectors review the hours of service Logs and maintenance records of motor carriers, is currently paid with general funds. While the Bush administration has advanced a proposal to pay for the Motor Carrier Safety Program out of the Highway Trust Fund, this would still require the trucking industry to reimburse the Department of Transportation for only part of the safety inspection costs which it imposes. Motorists other than truckers would pay the rest.

In sum, the safety record of the railroad industry is clearly superior to that of the trucking industry and it compares very favorably to other modes of transportation. AAR strongly opposes any extension of the Motor Carrier Safety Assistance Program to railroads.

Sincerely,

W.H. DEMPSEY.



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